Q. That is the first time that you ever told anybody about this incident? A. Yes, sir.

Q. As I remember, Mr. Semnacher, you testified yesterday that you didn't know Mrs. Taube's name when you testified before the coroner and the Grand Jury, and that you saw it -- and that you learned her name by reason of having seen a photograph of her, Mrs. Taube, and Arbuckle leaning through the window of the St. Francis Hotel, in the newspaper?

A. No, sir, you are wrong there.

Q. What didyou say?

A. I stated that I did not know who Mrs. Taube was at that time. I saw her name in the newspaper later. I saw the photograph of Mrs. Taube and Mr. Arbuckle in one of the papers, sir, and I think a day or two later he name came out.

Q. I show you a pair of gold cuff links with the initials "W.R." engraved on them,with the tag of the property clerk of the city and county of San Francisco on them, and ask you if you recognize them?

A. Yes, sir.

Q. Those are Miss Virginia Rappe's cuff links testified to by you?

A. Yes, sir.

MR GOLDYN: I offer them in evidence and ask they be marked People's Exhibit No. 1--

THE CLERK: Six.

THE COURT: Any objection, counsel?

MR COHEN: No, not at all.

THE COURT: So ordered.

MR GOLDEN: Q I show you a jade bracelet on which is attached

Q. That is the first time that you ever told anybody about this incident?

A. Yes, sir.

Q. As I remember, Mr. Semmacher, you testified yesterday that you didn't know Mrs. Taube's name when you testified before the coroner and the Grand Jury, and that you saw it -- and that you learned her name by reason of having seen a photograph of her, Mrs. Taube, and Arbuckle leaning through the window of the St. Francis Hotel, in the newspaper?

A. No, sir, you are wrong there.

Q. What didyou say?

A. I stated that I did not know who Mrs. Taube was at that time. I saw her name in the newspaper later. I saw the photograph of Mrs. Taube and Mr. Arbuckle in one of the papers, sir, and I think a day or two later he name came out.

Q. I show you a pair of gold cuff links with the initials "V.R." engraved on them,with the tag of the property clerk of the city and county of San Francisco on them, and ask you if you recognize them?

A. Yes, sir.

Q. Those are Miss Virginia Rappe's cuff links testified to by you?

A. Yes, sir.

MR GOLDEN: I offer them in evidence and ask they be marked People's Exhibit No. 4--

THE CLERK: Six.

THE COURT: Any objection, counsel?

MR COHEN: No, not at all.

THE COURT: So ordered.

MR GOLDEN: Q I show you a jade bracelet on which is attached

the tag of the property clerk of the city and county of San Francisco, and ask you if you recognize that?

A. Yes, sir, Miss Virginia Rappe's.

Q. That is the bracelet belonging to Miss Virginia Rappe that you took with you to Los Angeles? A. Yes, sir.

MR GOLDEN: I ask that it be marked People's Exhibit No. 7.

THE COURT: So ordered.

MR GOLDEN: Q I show you this garment and ask you if you recognize it -- it comes from the possession of Captain Matheson -- present.

A. Yes, sir.

Q. What is it? A. Miss Rappe's waist.

Q. That is the waist that you took with you, belonging to Miss Rappe, down to Los Angeles? A. To Los Angeles, yes.

Q. I will ask you to please examine it, Mr. Semmacher, and state whether generally speaking it is now in the same condition as it was when you picked it out of the waste basket.

A. No, sir.

Q. Any change in it? A. That I can see.

Q. It was torn in just about the same way that it now appears to be?

A. Yes, sir.

MR GOLDEN: I ask that this waist be marked People's Exhibit No. 8

THE COURT: So ordered.

MR GOLDEN: Q I show you this article and ask you if you recognize it?

A. Yes, sir.

Q. What is it?

the tag of the property clerk of the city and county of San Francisco, and ask you if you recognize that?

A. Yes, sir, Miss Virginia Rappe's.

Q. That is the bracelet belonging to Miss Virginia Rappe that you took with you to Los Angeles? A. Yes, sir.

MR GOLDEN: I ask that it be marked People's Exhibit No. 7.

THE COURT: So ordered.

MR GOLDEN: Q I show you this garment and ask you if you recognize it -- it comes from the possession of Captain Matheson -- present.

A. Yes, sir.

Q. What is it? A. Miss Rappe's waist.

Q. That is the waist that you took with you, belonging to Miss Rappe, down to Los Angeles? A. To Los Angeles, yes.

Q. I will ask you to please examine it, Mr. Sennacher, and state whether generally speaking it is now in the same condition as it was when you picked it out of the waste basket.

A. No, sir.

Q. Any change in it? A. That I can see.

Q. It was torn in just about the same way that it now appears to be?

A. Yes, sir.

MR GOLDEN: I ask that this waist be marked People's Exhibit No. 8

THE COURT: So ordered.

MR GOLDEN: Q I show you this article and ask you if you recognize it?

A. Yes, sir.

Q. What is it?

A. I call them "Teddies", or pants.

Q. These are Miss Rappe's -- these were Miss Rappe's?

A. Yes, sir.

Q. These are the drawers, or Teddies, or whatever they are, that you took with you? A. Yes, sir.

Q. And picked out of the waste basket? A. Yes, sir.

Q. Please examine it and see if it is, generally speaking, in the same torn condition now as it was when you picked it out of the waste basket? A. Yes, sir.

MR GOLDEN: The drawers will be what number, Mr. Clerk?

THE CLERK: That is 9.

THE COURT: Ordered admitted in evidence.

MR GOLDEN: Q I show you another garment and ask you if you recognize it?

A. Yes, sir.

Q. What is it please?

A. I believe they call that a jacket.

Q. A green jacket? A. Yes, sir.

Q. Two pockets in front. This garment, this green jacket is one of those which you gathered up and left in room 1227?

A. With Miss Rappe and Mrs. Delmont.

Q. Is that right? You left this green garment in room 1227?

A. Yes, sir.

Q. I call your attention to the rip on one side of it, from the shoulder of the arm down to the . Was that torn in that way at the time you gathered it together?

A. I call them "Teddies", or pants.

Q. These are Miss Rappe's -- these were Miss Rappe's?

A. Yes, sir.

Q. These are the drawers, or Teddies, or whatever they are, that you took with you? A. Yes, sir.

Q. And picked out of the waste basket? A. Yes, sir.

Q. Please examine it and see if it is, generally speaking, in the same torn condition now as it was when you picked it out of the waste basket? A. Yes, sir.

MR GOLDEN: The drawers will be what number, Mr. Clerk?

THE CLERK: That is 9.

THE COURT: Ordered admitted in evidence.

MR GOLDEN: Q. I show you another garment and ask you if you recognize it?

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Q. A green jacket? A. Yes, sir.

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A. With Miss Rappe and Mrs. Delmont.

Q. Is that right? You left this green garment in room 1227?

A. Yes, sir.

Q. I call your attention to the rip on one side of it, from the shoulder of the arm down to the . Was that torn in that way at the time you gathered it together?

A. I believe it was.

Q. It was?

A. I would not swear to it, but I believe it was.

MR GOLDEN: I ask this one, the green garment, be marked People's Exhibit next in order.

THE COURT: So ordered.

MR GOLDEN: Q Now I show you a green skirt, and ask you if that is the green skirt which you took with you into room 1227?

A. Where Mrs. Delmont and Miss Rappe were.

Q. Yes? A. Yes, sir.

Q. I show you this panama hat, and ask you if you recognize it?

A. Yes, sir.

Q. This is Miss Rappe's hat? A. Yes, sir.

Q. That is the hat that she wore coming to San Francisco?

A. Yes, sir.

Q. On the occasion that we are all investigating?

A. Yes, sir.

Q. That is the hat you took from 1219 to room 1227?

A. Yes, sir.

Q. Did you ever see this panama hat on Mr. Arbuckle's head?

A. No, sir.

Q. It belongs to Miss Rappe? A. To Miss Rappe.

MR GOLDEN: I ask that the hat be marked the next number.

THE COURT: So ordered.

MR GOLDEN: Q Now I show you the two garters, and lace, and ask you if you recognize them?

A. Yes, sir.

A. I believe it was.

Q. It was?

A. I would not swear to it, but I believe it was.

MR GOLDEN: I ask this one, the green garment, be marked People's Exhibit next in order.

THE COURT: So ordered.

MR GOLDEN: Q. Now I show you a green skirt, and ask you if that is the green skirt which you took with you into room 1227?

A. Where Mrs. Delmont and Miss Rappe were.

Q. Yes? A. Yes, sir.

Q. I show you this panama hat, and ask you if you recognize it?

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Q. This is Miss Rappe's hat? A. Yes, sir.

Q. That is the hat that she wore coming to San Francisco?

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Q. On the occasion that we are all investigating?

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Q. That is the hat you took from 1219 to room 1227?

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Q. Did you ever see this panama hat on Mr. Arbuckle's head?

A. No, sir.

Q. It belongs to Miss Rappe? A. To Miss Rappe.

MR GOLDEN: I ask that the hat be marked the next number.

THE COURT: So ordered.

MR GOLDEN: Q. Now I show you the two garters, and lace, and ask you if you recognize them?

A. Yes, sir.

Q. The two of them? A. Yes, sir.

Q. You picked these garters up--

A. Off the floor of 1219.

Q. And took them into 1227? A. Into 1227.

Q. I show you this one, and call your attention to the fact the lace is all torn off of it -- is the garter with the lace all torn off in substantially the same condition it was when you took it from 1219 to 1227?

A. That I don't remember. I took the two up together.

Q. Don't you know whether or no, this garter when you picked it up, had the lace all torn off?

A. No, it seems to me there was some lace on there.

Q. Here is one with some lace on.

A. I don't remember.

Q. Don't remember anything about that? A. No.

MR GOLDEN: I ask that the garter without the lace torn -- that is, with the lace attached, be marked as an exhibit next in number.

THE CLERK: Thirteen.

THE COURT: So ordered.

MR GOLDEN: And that the garter with the lace torn off, be marked People's exhibit --

THE CLERK: Fourteen.

THE COURT: So ordered.

MR GOLDEN: And let the record note there are some pins stuck through the garter.

MR COHEN: There is only one pin.

MR O'REEN: Your honor, it is twelve o'clock, and we will have

Q. The two of them? A. Yes, sir.

Q. You picked these garters up--

A. Off the floor of 1219.

Q. And took them into 1227? A. Into 1227.

Q. I show you this one, and call your attention to the fact the lace is all torn off of it -- is the garter with the lace all torn off in substantially the same condition it was when you took it from 1219 to 1227?

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Q. Don't remember anything about that? A. No.

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THE CLERK: Thirteen.

THE COURT: So ordered.

MR GOLDEN: And that the garter with the lace torn off, be marked People's exhibit --

THE CLERK: Fourteen.

THE COURT: So ordered.

MR GOLDEN: And let the record note there are some pins stuck through the garter.

MR COHEN: There is only one pin.

MR O'NEW: Your honor, it is twelve o'clock, and we will have

to secure a stipulation to continue. Is it stipulated we may continue, Mr. Dominguez?

MR DOMINGUEZ: Certainly.

CROSS EXAMINATION

MR DOMINGUEZ: Q. Do you remember coming out in the hallyway here in the Hall of Justice the night I was standing out there on those stone steps?

A. Yes, sir.

Q. Do you remember that you told me you had just been in and made a statement to Captain Matheson and that statement had been reduced to writing and he wanted you to sign it?

A. I asked you some question.

Q. Don't you remember that was the question you asked me?

A. No, I don't.

Q. Don't you remember you told me you had made a statement in writing? A. Yes, I believe I did.

Q. Didn't I tell you to go right back there and sign it if it contained the whole truth? A. Yes, sir.

Q. And didn't I tell you at all times while you were in that hallway talking to me, all that we wanted was the truth, and I wanted you to utter the truth? A. Yes, sir.

Q. The fact is I ordered you back into Matheson's office and told you to go in and sign, if it contained the entire truth; isn't that the fact?

A. I believe so.

Q. Now prior to that time you had never told me a word about your side of this story or anything that purported to be the facts of

this case, have you?

A. I haven't, up to this time.

Q. Answer my question -- prior to the time--

A. No, sir.

Q. You didn't ride with me in any car, did you? A. No, sir.

Q. You never discussed the case with me coming up to San Francisco did you? A. Positively not.

Q. You never saw me in your life prior to the night you saw me over in Hollywood? A. Yes, I had seen you before.

Q. You had seen me before, but not to talk to me?

A. Yes, sir.

Q. I want to ask you this, Mr. Semnacher, if during all the time that you were there in those apartments, while Mr. Arbuckle was there if at any time you noticed any improper conduct on the part of Mr. Arbuckle toward any of the ladies?

A. No, sir.

Q. I want to ask you if it is not a fact that his whole conduct during the time he was there, and you were present in either one of those rooms, if his conduct wasn't that of a gentleman toward all the ladies present.

MR U'REN: That implies what the witness saw.

MR DOMINGUEZ: Of course if he didn't see it, he can't testify to it.

MR U'REN: We want it plain.

MR DOMINGUEZ: It is plain to everybody else but you.

A. Yes, sir.

Q. Did you hear one improper word from Mr. Arbuckle to any one

of the ladies present there on any occasion when you were in those rooms during that Arbuckle party?

A. No, sir.

Q. Now when you first went up there, Mr. Semmacher, isn't it a fact Mr. Arbuckle was having his breakfast? A. Yes, sir.

Q. You don't want the Court to believe he was drinking at that time, do you? A. No, sir.

Q. Did you see Mr. Arbuckle drink at all, Mr. Semmacher?

A. During the whole day?

Q. I will say within three or four hours after he had his breakfast?

A. Yes.

Q. Well you didn't see Mr. Arbuckle under the influence of liquor there at any time?

A. No, not under the influence of liquor.

Q. His conduct was perfectly proper the whole time?

A. Yes, sir.

Q. And that of a gentleman? A. Absolutely.

Q. Did he show any marked difference in his treatment of any one of the ladies there at all?

A. No, sir, he was the entertainer of the party.

Q. In other words he treated Mrs. Delmont and all the other ladies who were present the same as he did Miss Rappe; isn't that true?

A. Yes, sir.

MR DOMINGUEZ: That is all.

MR [illegible]: Just one question. Q. You never saw -- if it be a fact, that Miss Rappe went into room 1219, closely followed by Mr. Arbuckle -- you weren't in the room when that happened?

A. No, sir.

MR DOMINGUEZ: Just a moment.

MR GOLDEN: I say, if it be a fact.

MR DOMINGUEZ: He has stated there something that was never stated by this witness in the world.

MR GOLDEN: Q. Now you undertook, in answer to Mr. Dominguez' question, to pass your judgment upon what was proper conduct and what was gentlemanly conduct and the right kind of conduct that men should show to women?

A. I am not passing judgment.

Q. You undertook to answer Mr. Dominguez' question as to whether you saw anything improper in the conduct of Mr. Arbuckle while you were in those rooms, toward any lady?

A. There was nothing improper, in my presence.

Q. Was Mr. Arbuckle's conduct in relation to the repetition of the story about the putting of ice into this girl, and to the general laughter, also not improper?

MR DOMINGUEZ: I don't consider that is a question that should be asked now. He has already gone into that matter very thoroughly. He is calling for the conclusion of the witness. He is not responsible for the laughter of other people. There is no testimony that Mr. Arbuckle laughed at his own statement, if that statement was ever made.

THE COURT: Read the question, Mr. Reporter.

(Last question read by the reporter.)

MR GOLDEN: Now if the Court please, the witness by his answers

[illegible]

[illegible]

[illegible]

to Mr. Domingues' questions, has undertaken to give his version and his understanding of what is proper conduct and gentlemanly conduct. We are entitled to know the witness' attitude toward gentlemanly conduct and proper conduct toward women.

THE COURT: The question of defendant's counsel which started you going on this inquiry was to the effect whether the witness had seen himself any improper conduct on the part of the defendant directed toward any of the ladies on the occasion of the witness' various visits to this room?

MR GOLDEN: Precisely.

THE COURT: That is the only testimony that you are seeking to question--

MR GOLDEN: No. We are entitled to know what his idea of improper conduct is. We are entitled to gauge it.

THE COURT: Listen. An inquiry of that kind would be so extensive, and involves so many peculiarities of the human mind that I don't see how you can make an inquiry of that kind.

MR GOLDEN: The idea of the court is that the question and the fact and the incident speak for themselves?

THE COURT: You are trying to get the court to commit himself as to his views regarding what the court would consider proper conduct. If the witness had seen that incident which was afterwards related to him by the defendant and, nevertheless, had thought that the defendant had conducted himself in a perfectly proper and gentlemanly manner, naturally the court would have a very, very poor opinion of the witness' ideas regarding the

to Mr. [illegible]' questions, has undertaken to give his version and his understanding of what is proper [illegible] and gentlemanly [illegible]. He are entitled to [illegible] the witness' attitude toward gentlemanly [illegible] and proper [illegible] toward women.

THE COURT: The question of defendant's counsel [illegible] started you [illegible] to this inquiry was to the effect whether the witness had been himself any [illegible] of the part of the defendant directed toward any of the ladies or the [illegible] of the witness' various visits to this room?

MR [illegible]: Precisely.

THE COURT: That is the only testimony that you are [illegible] to question--

MR [illegible]: No, we are entitled to know what his idea of [illegible] is. He are entitled to [illegible] it.

THE COURT: Listen, an inquiry of that kind would be so extensive, and involve so many [illegible] of the human mind that I don't see how you can make an inquiry of that kind.

[illegible]: The idea of the court is that the question and the fact and the incident speak for themselves?

THE COURT: You are trying to put the court to submit himself as to his view regarding what the court would or [illegible] proper [illegible]. If the witness had seen that incident which was after-wards related to him by the defendant [illegible], nevertheless, had thought that the defendant had [illegible] himself in a perfectly proper and gentlemanly manner, naturally the court would have a very, very [illegible] of the witness' ideas regarding the

propriety of conduct. The witness hasn't stated he saw that thing happen, but it was related to him on the day following. Therefore the witness was in no position at the time of observing the defendant's conduct to form any opinion adverse to the gentlemanly demeanor of the defendant.

MR GOLDEN: This is the point, whether conduct is proper or improper, gentlemanly or ungentlemanly, is largely one of mixed views and conclusions. What would appear to him to be gentlemanly or ungentlemanly, proper or improper --

THE COURT: Mr. District Attorney, the witness has only testified to this one thing, he never saw anything ungentlemanly in the conduct of the defendant on the occasion of his visits to that room on the occasion of September 5th. You might ask the witness this, and that would be a test of the decency and morality of the witness himself -- if that is in issue here -- you can ask the witness this question, and that will elucidate the entire line -- I will put it in this form: Mr. Witness, if on this occasion you had observed the conduct relative to the ice that Mr. Arbuckle told you about, would you then have considered that Mr. Arbuckle acted in a gentlemanly manner?

MR GOLDEN: I am going to leave the subject as it is, and leave the incident for itself. That concludes the examination of this witness.

(Further proceedings continued until Monday, September 26th, 1921 at 10 o'clock A.M.)

---

propriety of conduct. The witness hasn't stated he saw that [illegible] [illegible], but it was related to him on the day following. Therefore the witness was in no position at the time of [illegible] the defendant's conduct to form any opinion adverse to the gentlemanly demeanor of the defendant.

[illegible]: This is the point, whether conduct is proper or improper, gentlemanly or ungentlemanly, is largely one of mixed views and conclusions. That would appear to him to be gentlemanly or ungentlemanly, proper or improper --

[illegible]: Mr. District Attorney, the witness has only testify to this one thing, he never saw anything ungentlemanly in the conduct of the defendant on the occasion of his visits in that room on the occasion of September 4th. You might ask the witness this and that would be a test of the accuracy and morality of the witness himself -- if that is in issue here -- you can ask the witness this question, and that will elucidate the entire line -- I will put it in this form: Mr. Witness, if on this occasion you had observed the conduct relative to the fact that Mr. Irvaskis told you about, would you then have considered that Mr. Irvaskis acted in a gentlemanly manner?

[illegible]: I am going to leave the subject as it is, and leave the incident for itself. That concludes the examination of this witness.

(Further proceeds a continued until Monday, September 14th, 1931 at 10 o'clock a.m.)

IN THE SUPERIOR COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DEPARTMENT NO. 2

Honorable Sylvain J. Lazarus, Judge.

THE PEOPLE OF THE STATE OF CALIFORNIA)
)
Vs.) MURDER.
)
ROSCOE ARBUCKLE)

MONDAY, SEPTEMBER 26TH, 1921.

10;45 A.M.

MR [illegible]: I understand that the defendant desires to interrogate Mr. Semmacher.

MR [illegible]: With your Honor's permission.

THE COURT: Has he been directed to come back today?

MR [illegible]: He was--as I understand, Saturday afternoon Mr. Dominguez telephone to Judge Brady that he wanted Mr. Semmacher for further interrogation and Judge Brady advised Mr. Semmacher,-- instructed him--to remain over --I don't know that he was told to be here this morning - but that certainly was the understanding -- he should have been here. We will see if we can get him and bring him here.

THE COURT: In the meantime I presume you are ready to proceed with some other witness.

MR [illegible]: Call Dr. Beardslee, please.

(Dr. Beardslee called by the bailiff; no answer)

THE COURT: Is the witness under subpoena?

MR [illegible]: The subpoena was sent out this morning. He said he wanted to be put on immediately so he could go away, and we agreed todo it.

MR O'BRIEN: We will call Miss Prevost.

THE COURT: I presume if the doctor comes in the meantime, you will withdraw the witness temporarily -- the witness you are now calling -- if the doctor comes in in the meantime I presume you will want to put him on the stand?

MR [illegible]: We will see. In the meantime we will put on Miss Prevost.

THE COURT: The bailiff informs me that Mr. Bernacher will be right down from the Plaza Hotel.

MR [illegible]: I think it will be better to wait.

MR O'BRIEN: If your Honor please, we will wait until Mr. Bernacher is here; that will enable us to proceed in an orderly way.

(Recess for five minutes)

MR O'BRIEN: (After recess) We will call Dr. Beardsley.

DR. ARTHUR BEARDSLEY

Called as a witness on behalf of the People, sworn:

MR O'BRIEN: Q What is your full name, please?

A. Arthur Beardsley.

Q. And what is your occupation? A. Physician and surgeon.

Q. Where do you live, Doctor? A. The St. Francis Hotel.

Q. How long have you been a physician and surgeon?

A. About fifteen or sixteen years.

Q. Of what institution are you a graduate?

A. University of California.

Q. When did you graduate? A. Naught seven.

Q. 1907? A. Yes, sir.

Q. And when were you admitted to practise medicine?

A About two years later, -- after my return from New York -- I took the State Board.

Q. Took the State Board medical examinations then, about 1909?

A. Yes, sir, about that time.

Q. And have you been practising your profession ever since?

A. Yes, sir.

Q. Are you the house physician at the St. Francis Hotel?

A. I am.

Q. And were you such on September 5th, 1921? A. Yes, sir.

Q. Did you receive a call, or pay a visit to room 1227 of the St. Francis Hotel on the night of September 5th? A. I did.

Q. When? A. About 7 o'clock in the evening.

Q. When you went into the room who did you find?

A. There were two women in the room.

Q. Yes, go on doctor, who were they?

A. One was caring for the other -- one was in bed, the other was walking about the room.

Q. And the one in bed, will you please describe her condition?

A. She complained of severe pain in her abdomen, -- in the lower region of her abdomen.

Q. Did you make an examination? A. I did.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Yes, sir.

[illegible] you admitted to practise medicine

[illegible] -- other [illegible] -- I [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Q. What kind of an examination did you make?

A. I attempted to examine -- to palpate her abdomen, but it was so sensitive and she complained so of the pain that I at that time went over her reflexes and listened to her heart with a stethoscope --and other physical examination at that time. Then it was necessary for me to give her a hypodermic to quiet her pain.

Q. What hypodermic, or what dose did you administer?

A. I gave her a quarter of morphine and 1/50 of the strophine.

Q. And did that have any effect upon the patient?

A. It quieted her somewhat -- relieved her pain temporarily.

Q. And then did you make an examination of the abdomen?

A. Yes, I went over the abdomen after a short interval -- about such a time as it would take for the morphine to affect her, and found it was still very sensitive and especially over the lower portion of the abdomen.

Q. Did you know at that time the name of the patient?

A. No, I didn't inquire her name.

Q. Have you since learned the name of the patient?

A. I have by seeing it in print.

Q. You now know that that patient was Miss Virginia Hall?

A. Yes.

Q. Doctor, is that all of the examination you made at that time and the treatment administered?

A. That was about all. I gave her what I thought was a thorough enough examination to find out what her trouble was. I also interrogated the lady that was waiting on her.

Q. And got from her a history of the case?

A. Yes I asked her --

MR DOMINGUEZ: Just a moment; we object to that as hearsay and incompetent, irrelevant and immaterial -- hearsay.

THE COURT: Objection sustained.

MR O'DEA: Q. And did you at that time arrive at any conclusion, in your mind, as to what the patient was suffering from as the result of your examination?

A. At that time I realized that she was suffering from a very severe pain in her abdomen. Did you want to know more than that -- did you want to know whether I was able to make a diagnosis at this time?

Q. Doctor, at that time you were called upon to administer to this patient and treat the patient? A. Yes, sir.

Q. And you made some examination of the patient?

A. Yes, sir, and treat her for her symptoms of pain at that time.

Q. And at that time did you have any conclusion in your mind as to what had caused the pain?

A. I was told by --.

MR DOMINGUEZ: Just a moment.

THE COURT: You can not repeat the conversation.

Q. Did you make any diagnosis -- I presume you would call it?

A. No. I was merely aware of the fact the lady was suffering from a pain.

Q. In her abdomen?

A. In her abdomen.

Q. You had not determined what the cause of the pain was?

A. There was only one way for me to ascertain -- to interrogate the lady that was there, and get a history of the case, which I did.

Q. You got a history of the cause from the lady?

A. Yes, sir.

Q. MR U'[illegible]: And without reciting what the lady said -- that history -- then did you arrive at any conclusion as to the cause of the pain?

A. From what she told me I had a very good idea what may have caused her pain -- what may have caused this pain.

Q. What was that, doctor?

MR [illegible]: Just a moment -- to which we object as incompetent, irrelevant and immaterial. He can't give his conclusion as the result of his examination, but he can not give his conclusion from what somebody else told him.

MR U'[illegible]: If the court please, the most important thing in arriving at a diagnosis of a disease is the history of the cause.

MR [illegible]: From what he learns from his patient, but not someone else.

THE COURT: The second, now, doctor. There is an objection here and it merits a little attention.

MR U'[illegible]: I just asked the doctor that question, if your Honor please, if it isn't customary in all cases in treating a patient in regard to pains, to have a diagnosis of the cause of the injury or pain, to get a history of the pain from anybody who knows anything about it.

THE COURT: What the other lady told the doctor would evidently involve the thing that the court is called upon to determine here. I would not like to have the record to show anything that was told the doctor by any other person bearing upon the facts of this case

and relating to matters which may properly be the subject of dispute here.

MR O'[illegible]: I am not asking him to say what the other lady told him. I am simply asking the question as to whether or not he received a history of the case, and together with his examination arrived at some conclusion or determination as to what the cause of the pain was.

MR JOHNS: Can't the doctor say that from his examination of this woman? --of his patient -- without getting it from outside or from some other person -- to draw his conclusion as to the disease or what the ailment was.

THE COURT: Gentlemen will you let me ask a question? If you wish to object to it, do so. I will ask you doctor, this: Did you come to any conclusion, doctor as to the cause of the pain at that time? If you want to object to that, gentlemen, you may do so.

MR O'[illegible]: You mean at that time -- at that first visit?

THE WITNESS: What was your question?

(Last question read by the reporter)

THE WITNESS: I was able to come to the conclusion--

THE COURT: Answer that yes or no. Did you come to any conclusion at that time as to what caused the pain?

A. Yes, I did.

Q. What was your conclusion as to what was the cause of the pain?

A. I came to a conclusion after getting a history of the case.

Q. I am not asking you how you came to your conclusion; I am simply asking you what your conclusion was.

A. Pardon me, judge. That would be handicapping me -- if you don't allow me to get a history of the case when I see a patient.

MR U'BRIEN: Any physician will have to have a history. Even Dr. Rumwell will admit that.

MR COHEN: He can't go outside to get it.

MR U'BRIEN: That is the only way he can get it.

MR [illegible]: He has already stated he had a conclusion - and let him state the cause if he knows.

THE COURT: The history of the case is something that is going to be brought out here eventually by other testimony - by perfectly relevant, legal testimony - and we are not concerned in the manner in which you learned the history of the case. We only want to know what your conclusion was as the result of any information or medical examination that you received or made at that time.

A. That would be my only possible way of gaining information, would be to interrogate whoever was there. The first question I would ask --

THE COURT: We have jumped over that.

THE WITNESS: (Continuing) --would be "What is this patient suffering from?"

MR U'BRIEN: Just a minute. I think we can get along, doctor, all right. Q. Upon this first visit, doctor, did you arrive at a complete diagnosis of the case on your first visit?

A. No, not a complete diagnosis of the case.

Q. All right, did you find what was the condition of the patient at that time in your opinion, as to being intoxicated or non-intoxicated --did you find any evidence of intoxication?

A. No, the evidence of pain was so predominant that I was concerned

principally with the suffering the lady was going through. If there was a history of alcoholism there, or evidence of alcoholism, it was very slight, as it was over-shadowed with this intense pain -- for which I gave her the hypodermic the first thing.

Q. And did that complete your treatment at that time, doctor?

A. After making an examination --

Q. And administering the hypodermic?

A. And administering the hypodermic -- it is impossible for me to admit any conversation with this lady?

MR DOMINGUEZ: No.

MR U'REY: Q You had some conversation with the lady?

A. Yes. And she followed out her suggestions as to what the patient needed.

Q. Was anything purchased at your direction or with your knowledge and consent?

A. Yes, sir.

Q. What?

A. An enema bag was purchased.

Q. Did that complete your first visit?

A. That I think completed most of the first visit.

Q. Now did you return again to [illegible], to the patient?

A. Yes, I returned to the hospital then, and made a call, an involuntary one, into the room to see how this lady was -- I was concerned about her.

Q. At what time of the night was that? -- That was the same night, was it doctor?

A. Yes, between eight and nine.

THE COURT: Q What hospital?

A. St. Francis.

MR U'REY: Q What condition did you find the patient in at that

time?

A. The patient was quiet at that time -- quieter.

Q. Did you make an examination of the patient at that time, or administer any medical attention?

A. I did very little for the patient at this time as she was much quieter and seemed to be relieved from this excruciating pain, and I was content at that time to let her rest. I suppose I can't let you know what transpired in the hospital because my only means of knowing what was going on was asking this other woman?

Q. You had a conversation with this other woman?

A. Yes.

Q. And this other woman you have since learned to be whom?

A. I don't know -- I have since seen the name of the other woman.

Q. Delmont? A. Yes.

Q. You had a conversation with her respecting the patient?

A. Yes, sir.

Q. Without reciting what the conversation was --

A. Yes, sir.

Q. Now state all you did at that time, doctor, at that visit?

A. Yes. That is all at that visit.

Q. Were you called again to visit the patient that night?

A. Yes. I went on about my work, and later returned to the hotel and retired. About 11 o'clock I received an urgent call from this same room, 1[illegible] -- the same voice, -- same woman.

Q. And you responded? A. I did, promptly.

Q. And went to the room? A. Yes, sir.

Q. Did you see the patient at that time? A. Yes, sir.

Q. What was her condition at that time?

A. The picture was much the same at that time. The pain had returned -- the effect of the hypodermic had evidently exhausted itself -- and she was then writhing about and complaining of this pain in the lower abdomen -- severe pain which she said she could not stand -- and for which I deemed it necessary to repeat the dose of morphine -- the same dose.

Q. You say she could not stand it -- how did she express that, doctor, that she was in pain?

A. By writhing around -- holding her abdomen, --and giving all the manifestations of a severe pain.

Q. Did she speak to you?

A. She had very little to say to me and I had very little to say to her. I asked her one or two questions, as I remember at first, but she was so confused with the pain that she was suffering, that she did not give me a very rational answer, so I confined myself to interrogating the woman that was with her -- as she told me what I wanted to know.

Q. Now, was the patient uttering any sounds or noises on this second visit?

A. She would groan or give vent to the ordinary manifestations of pain.

Q. What treatment did you administer to her at this 11 o'clock visit, doctor?

A. I told you I had repeated medicine for her - the hypodermic.

Q. You repeated the hypodermic?

A. Yes, and at that time I asked --

Q. Well, did you get any further history of the case as to what treatment had been administered to her -- any other treatment?

A. Yes I was informed.

Q. That what?

A. That this treatment had been carried out.

MR DOMINGUEZ: Just a minute.

THE WITNESS: Is that all right?

MR JONES: All right.

THE WITNESS: Without very good results. And was also informed that she was trying to micturate -- that is to try to pass her urine, and was unable, and was in a great deal of pain. And it was also suggested to me at that time that she could not pass her urine, or has not passed her urine since this lady was in her home any -- and thought it was because of the urine in her bladder that caused her pain. Her first suggestion was that it was gas, and I said there was no gas in her bladder. And she gave her the enema, so I said it would not do her any harm, and it would relieve the bladder symptoms.

MR O'NEIL: Q. Did you make any further examination of the abdomen symptoms?

A. I did.

Q. At this time, doctor, from the history that you received at that time and from the result of your examination of the patient -- your observations of her -- did you arrive at any definite diagnosis as to the cause of the pain?

A. Yes. By this time I fully realized that she was suffering from an internal injury. I had previously told --

Q You can not repeat the conversation.

A. (Continuing) - that it was hospital case and she should receive surgical attention -- that she needed assistance.

Q. Surgical case?

A. I also asked what they were going to do. On each visit I tried to find out if they would do something.

Q. In other words you tried to find out if it was a surgical case from the beginning?

MR DARROW: That is not the gentleman's testimony.

MR O'BRIEN: Q Is that your testimony?

A. Yes, sir.

Q. Did you do anything further at this eleven o'clock visit other than you stated?

A. No, I think that covers everything.

Q. Did you pay another visit to 1427, and if so, when?

A. Yes, I retired and between four and five in the morning, I should judge, I received another urgent call.

Q. From the same room? A. Same room and same voice.

Q. That would be Tuesday morning, September 6th, the next morning?

A. Yes, sir.

Q. And you responded to that call, of course, doctor?

A. Yes, sir.

Q. And went to room 1427? A. Yes, sir.

Q. What did you find there?

A. I found that the patient was in severe pain once more; that the effect of the second hypodermic had exhausted and she had relapsed into the same condition again; that the hypodermic treatment

[illegible]

[illegible] - that it was hospital care and she should receive [illegible]

[illegible]

[illegible] what they were going to do. On each visit I [illegible] they would do something.

[illegible] you tried to find out if it was a surgical case [illegible]

[illegible] That is not the gentleman's testimony.

[illegible] is that your testimony?

[illegible]

[illegible] another at it is seven o'clock visit other [illegible]

[illegible] I think that covers everything.

[illegible] another visit to 1987, and if so, when?

[illegible]

[illegible] the same room? A. Same room and same voice.

[illegible] morning, September 6th, the next morning?

[illegible]

[illegible]

[illegible]

[illegible] was in severe [illegible] exhausted and she had [illegible] that the hypodermia treatment

I gave her for her symptoms were merely temporary then, and I was compelled to give her a third hypodermic of the same dose.

Q. Did you make any further examination at that time?

A. I did. I continually went over her abdomen looking for signs and symptoms, and kept a close watch on the case.

Q. At this time in addition to the hypodermic you administered, did you administer any other treatment?

A. At this time when I returned I -- well, in order to tell you, I will have to say it was due to a conversation on the previous visit on the deceased, to catheterize the patient -- this woman told me she would catheterize the patient.

Q. You needn't repeat that.

A. I supposed she was a nurse, but I supposed I had better catheterize her and be safe -- and I did. I sterilized the catheter.

Q. Where did you sterilize the catheter?

A. In my room.

Q. And before you returned at that 4 or 5 o'clock visit on Tuesday morning? A. Yes.

Q. And I understand you to say that you did catheterize the patient on this visit?

A. Yes, with the ordinary surgical technique.

Q. Of what material was that catheter?

A. Metal catheter.

Q. Have you that catheter with you? A. Yes, sir.

Q. Will you produce it, please?

(Witness produces catheter.)

Q. Now with this instrument, called a catheter, which I hold in

[illegible]

[illegible] give her a third hypodermis of the same dose.

[illegible] any further examination at that time?

[illegible] a close watch on the case.

[illegible] addition to the hypodermis you administered, did [illegible] other treatment?

[illegible] when I returned I -- well, in order to tell you, I [illegible] it was due to a conversation on the previous visit [illegible], to catheterize the patient -- this woman told me [illegible] the patient.

[illegible]

[illegible] I sterilized the catheter [illegible] and I did. I sterilized the catheter [illegible] did you sterilize the catheter?

[illegible]

[illegible] you returned at that 4 or 5 o'clock visit on Tuesday [illegible] Yes.

[illegible] understand you to say that you did catheterize the [illegible] in this visit?

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

my hand, did you catheterize the patient?

A. Yes, sir.

Q. Just please tell me what you did, doctor, upon that catheterization -- how you did it -- the manner of doing it.

A. We decided that he movements and her manifestations of pain were so severe that we could be unable to catheterize her, so I gave her the hypodermic first. After it had its effect -- this third hypodermic -- I just quietly separated her thighs and then separated the labrum minora, and inserted this catheter into the mature urethreal opening.

Q. Did you insert it just as it is, doctor?

A. Yes, sir.

Q. Now in inserting it did you find any difficulty -- meet any obstructions?

A. None whatever. It is a very simple proceeding, and the only thing was she was moving about quite a bit and was very patient, and didn't moan or complain of any pain or seem to have any trouble whatever in allowing us to pass this.

Q. I understand, doctor, that when you inserted this you met no obstruction?

A. None whatever. This is a regulation thing done in a hospital by all -- and seldom any pain accompanies it.

Q. We are talking about this particular operation at that time. Did you meet any obstructions of any kind? A. None.

Q. Did the catheter go in easily?

A. Perfectly normal.

Q. Did you have to use any force? A. Not at all.

Q. Did you use any substance upon the catheter?

A. Yes, I used a lubricant.

Q. What kind? A. Carbolated vaseline.

Q. And what was the effect of that catheterization, doctor?

A. We had a regulation glass, or a glass in which the urine flowed.

Q. Did you get any urine? A. Yes.

Q. How much? A. About 5 ounces of urine.

Q. And what was the condition of the urine, please describe to the court?

A. The urine was tinged with blood. It was about, well, about coffee-ground in color -- very dark, old blood.

Q. That word was, dark, old blood?

A. Old blood -- dark, old blood. There wasn't any signes of fresh blood or anything that would -- it was significant of a hemorrhage that had occurred previously. The urine was tinged with blood.

Q. Now after you got that result, doctor, did that confirm or dispel your previous diagnosis as to what the cause of the suffering was?

MR. [illegible]: I think that is a matter for the court, if you please.

THE COURT: I will allow the question.

THE WITNESS: My first conclusion, as I said, there was an internal injury. This result of catheterization confirmed my suspicion of internal injury, and also assisted in localizing the lesion--as I had been informed that she had not urinated for many hours, and had been on this debauch, and I expected to find urine in her bladder and what I thought would be a normal amount for that time --

but finding a very small amount, and it tinged with blood -- very dark and of small quantity, I immediately knew that the bladder was complicated in whatever this injury was.

MR [illegible]: Now what amount of urine would you naturally expect to find in the bladder?

MR DOMINGUEZ: That is objected to as calling for the conclusion of the witness. That would depend, your Honor, on time -- if a person had not urinated --

MR [illegible]: The history of this case showed she had not urinated.

THE COURT: I presume it would depend also, doctor, upon what liquid or nourishment the patient had consumed?

A. Yes.

Q. Which would be dependent upon the information you received?

A. Yes, sir.

MR [illegible]: Is five ounces of urine a large amount or small amount, doctor?

A. A very small fraction of what should be in the bladder.

Q. Did you administer any further treatment to the patient at that time?

A. No, I think that was about all that was done at that time, any more than to shake up with this woman -- to find out whether she was able to nurse this patient or take her to a hospital, or what she was able to do. She always told me she had to see others before she could make the necessary arrangements.

MR DOMINGUEZ: Just a minute, doctor.

THE COURT: Do you wish to have that stricken out?

MR DOMINGUEZ: Yes, your Honor.

THE COURT: Strike it out.

MR [illegible]: What is stricken out, what she told the doctor?

THE COURT: Yes.

MR [illegible]: About making the arrangements?

THE COURT: Yes.

MR [illegible]: That is all?

THE COURT: Yes.

MR O'[illegible]: At that time, doctor, did I understand you to say that you advised her removal to the hospital?

A. Yes, sir; and incidentally asked them when they would be able to give this patient the proper care.

Q. Then, doctor, did you leave the room? A. Yes.

MR O'[illegible]: At this time, if your Honor please, we ask that this catheter be admitted in evidence the next People's exhibit with the appropriate number.

THE CLERK: Fourteen.

THE COURT: You are depriving the doctor of one of his instruments. I suppose you don't want that, doctor. You will get it back again.

A. That is all right.

THE COURT: So ordered.

MR O'[illegible]: Doctor, perhaps I didn't understand the medical terms, and I will ask you again if after administering this catheterization if you arrived at any complete diagnosis as to what had caused the pain, or was causing the pain in the patient, Miss Barnet?

THE COURT: I can answer that. Let me do it. I don't think it is necessary for the doctor to go over it again. He said he

localized the cause of the pain at that time. He previously did not. It was due to some disturbance of the abdomen?

A. Yes.

MR GOLDEN: Some internal injury.

THE COURT: Some internal injury, and as the result of this examination he determined it was the disturbance in the bladder.

A. Yes, the bladder was complicating the internal injuries.

MR GOLDEN: Q. Doctor, I understand that, and I don't know that the court understands it. What do you mean by the term "the bladder was complicated in internal injury?"

A. It was entering into the condition -- or, in other words, you might say that the bladder was affected.

Q. In what way, doctor?

A. That the trouble was in the bladder.

Q. Affected in what way?

A. It could only mean one thing to a surgeon to find a bladder in that condition.

Q. That is exactly what I want, doctor; what was that one thing?

A. That the urine wasn't coming through the utero (passageway ?)-- getting out of the bladder some other way.

Q. In other words, there had been a hole in the bladder some other way?

A. That is the only way I could get at --

Q. You mean, doctor, that there was a puncture or tear in the bladder?

MR GOLDEN: That is objected to as calling for the conclusion of the witness.

MR O'NEIL: I guess so.

THE COURT: That was been procured by other testimony now. I presume the doctor would say necessarily -- he would state that his determination was that there was a rupture of some kind in the bladder -- but he hasn't stated -- I don't suppose he was in a position to state at that time, or to determine what caused the opening in the bladder. It might be an abcess, tumor, or cancer?

A. I was quite sure there was an opening -- as I had only seen the case a short time --

Q. MR O'NEIL: Doctor, when you first visited the patient you stated you felt her pulse and examined her heart with the stethoscope? A. Yes, sir.

Q. What was the result of that examination -- her heart condition?

A. There was nothing alarming about her heart. Her heart, you might say, was normal.

Q. On the second visit, did you make a like examination of the heart?

A. Yes, I examined her heart. At times I thought it was a little slow -- when I first saw her, if anything, there was a brudycardia-- a slowness of the heart.

Q. Did you find any evidence of fever, doctor?

A. No organic lesion, showing the heart was in any way in danger -- so I didn't get your question.

Q. I will withdraw that for the moment. Did you make a like examination of the heart at each of your visits?

A. I examined her heart on different occasions but not on all four or five visits that I made. I did not examine her heart each time.

Q. And the result of these examinations were what?

A. But I did take her pulse, I think, every time. I did take her pulse.

Q. The result of the examination of the pulse and the heart was what, on each of these visits?

A. You might say it was a normal heart.

Q. On your visit in the morning hour did you catheterize the patient --did you then examine her heart and pulse?

A. At what time was this?

Q. The four or five o'clock visit Tuesday morning.

A. Yes, sir.

Q. What was the result of that examination?

A. Her heart was, you might say, was a normal heart. There wasn't anything of significance.

Q. When you say "normal" do you mean the heart pulsations or beats were normal?

A. What I mean is--

MR [illegible]: Just a moment; that is a plain question, and I would like to have the witness answer.

THE COURT: Read the question, Mr. Reporter, please.

(Last question read by the reporter.)

MR O'NEIL: In number?

A. It was not a normal heart for her condition.

MR [illegible]: I move that the answer be stricken out as not responsive.

THE WITNESS: This lady was suffering -- this patient, I might say.

THE COURT: The question was whether the pulsations were normal as to frequency.

MR DOMINGUEZ: I will get it on cross examination.

THE COURT: You withdraw your objection?

MR DOMINGUEZ: Yes, I will examine the doctor.

THE COURT: Answer the question, doctor.

A' About the heart being normal?

Q. Yes.

A. I considered the heart was normal for her condition.

MR O'NEIL: Now doctor, taking the case of this patient as you found it from your examination -- that you know the history of the case -- from your examination and the result of your autheterization -- and then assuming that this patient died the following Friday at 1:30 P.M., would any surgical operation of any kind -- and upon post mortem it was found the bladder contained a rent or tear about three quarters of an inch long at the top of the bladder, just over the curve there, what, in your opinion, would cause that rent or tear?

MR DOMINGUEZ: We object to that on the ground that there has been no foundation laid; there hasn't been any foundation here that the doctor has made any internal examination here. There is no evidence here, your honor, that the doctor has specialized in kidney diseases or in surgery; and we therefore take it that no foundation has been sufficiently laid for the doctor to answer that question.

MR O'NEIL: He has been a surgeon for fifteen years.

MR O'NEIL: We will leave that point to the court.

THE COURT: The question is a hypothetical question based upon the doctor's ability to answer it as a medical expert; and I take it that there would not be any question -- or should not be any

question as to Mr. Beardsley's professional ability to answer the question. I will overrule the objection. Repeat the question to the doctor. So we will understand before he makes an answer, in answering the question I will suggest that you only answer it in very general terms, doctor. I presume you would not do otherwise, but let your answer be perfectly general, disregarding anything that might have been told you by anybody else in connection with the trial of the case.

(Last question read by the reporter.)

A. Do you want me to answer that just the same as I would a hypothetical question?

THE COURT: Yes; it is a hypothetical question.

A. This tear could be caused by direct or indirect violence.

MR. O'NEIL: Violence external or internal, doctor?

A. External, I would say was the most probable cause of the rupture of a bladder.

Q. And a blow where?

A Offered over the abdomen - over the region. Then as I said, direct or indirect -- might have received a blow not directly over the bladder, but at a distant point, and the bladder still be ruptured.

Q. And do you mean on that indirect violence, doctor, where would that blow have to be administered -- anywhere in the region of the abdomen?

A. A fall on a full bladder, or even if it didn't strike the bladder directly, might cause a bursting of the bladder.

Q. But that blow, though, would have to be in your opinion, an

external blow?

A. Usually, yes. It is a direct force, but could be an indirect.

Q. Wouldn't the force or violence -- If the force or violence which caused the rupture was an indirect force or violence, would it have to be greater or less than the direct application of force or violence?

A. There could be a rupture of the bladder with a very slight fall. And it has occurred -- especially with a full bladder.

MR O'NEIL: That is all, I think.

CROSS EXAMINATION

MR DOMINGUEZ: Q. Doctor, by an indirect force you meant an internal force, did you not?

A. No.

Q. What was your exact idea in using the word "indirect" then?

A. I might make it plain to you by saying, by striking this (illustrating) is a direct force; by striking at a distance there is a force of the blow being transmitted to this point -- would be indirect.

Q. A transmitted force, in other words? A. Yes.

Q. Well, doctor, assuming that the history of the case showed that the party in question had not urinated for many hours and that the bladder was over-distended -- could violent vomiting cause the rupture?

A. If it were violent enough, it might.

Q. Well say vomiting covering a period of two or three hours?

A. The vomiting itself, I do not believe would rupture the bladder; but the contortions that would go on through during the process

of vomiting might be a causative factor in rupturing a bladder.

Q. You told the court a moment ago you had known of cases where a bladder had been ruptured by indirect forces?

A. I told you that cases had been -- I didn't tell you I knew.

Q. Had you, by literature, or had they come under your knowledge?

A. Under my knowledge -- I haven't looked up the literature -- I have been away.

Q. You would have to make any study of the bladder?

A. Yes, or to read up on this case particularly.

Q. You have read of cases of spontaneous ruptures?

A. Yes, sir. It has occurred. But very rarely.

THE COURT: By spontaneous -- without the direct application of any apparent cause?

A. Without any apparent cause.

MR DOMINGUEZ: Q If the patient in question has a kidney lesion, wouldn't you find the same condition --

MR U'HARA: I am going to object to that.

THE WITNESS: It would be easily differentiated, whether it were a kidney or bladder.

MR DOMINGUEZ: Q Well, please do it.

A. The pain, in the first place, would not have been in the portion of the abdomen that this lady had referred to - the kidney region.

Q. I didn't make myself plain. You told us that the urine showed bloodiness -- a bloody condition.

A. No, I said it contained blood.

Q. I am asking you if perchance a kidney lesion had been suffered by this patient would you find that same condition in the urine you

found in this particular case.

A. You are speaking of the urine alone?

Q. Yes, sir.

A. There might be blood in the urine.

Q. Would there be, doctor?

A. Yes, if you want to put it in there, all right.

Q. No, sir, I want to ask from you as an expert whether that would not be the case.

A. I told you yes once, didn't I?

Q. Yes, sir. A. Well then, let it go at that.

Q. Thank you, sir. This is not a personal matter between us, doctor.

A. I know it is not -- only we might as well get right at first.

MR DEMINGUEZ: We wont get angry about it, doctor.

THE WITNESS: Not if I can help it.

Q. Listen, doctor. You were there at 11 o'clock mind you, on the 5th -- saw the patient, didn't you?

A. Yes, that is right.

Q. You found out then that the bladder was full of urine?

A. No, I didn't find that out.

Q. You were told that she hadn't urinated for many hours.

THE COURT: That doesn't mean the bladder was full of urine. The subsequent development was to the contrary.

A. If you had permitted me I would have told you I informed this woman there was very little urine in that bladder, as I ascertained at that time -- but you would not permit me to introduce that evidence.

MR DOMINGUEZ: I intend to pursue this cross examination as I

see fit, with the ruling of your Honor. I want a plain answer. I have a right to premise my question on any idea that existed at that time.

MR GOLDEN: Not by an erroneous statement of the evidence.

MR DOWLING: (After discussion) I withdraw that question and will rephrase it. Q. Doctor, when you went there at 11 o'clock that night, you had the information, or you received the information, that this patient had not urinated for many hours, is that true?

A. Yes, sir.

Q. Then did you make an examination to determine whether or not the bladder was filled with urine at that time?

A. I did.

Q. What examination did you make?

A. By percussing the bladder over the abdomen region. I might say that there would be a flatness had there been urine and some distention -- which were absent.

Q. At this time, however, you had determined that the pain over the abdomen was due to an internal injury, hadn't you?

A. Yes; that is right.

Q. The fact of the matter is that on your first visit you had determined that? A. No, I didn't say that.

Q. Did you say that on the second visit you determined that?

A. Yes -- on the third visit is the time -- you better place it at the third -- you

Q. You will place it at the third, now?

A. The second, you will remember, was the time I came in when they were resting(?).

Q. What pulse did you find on your first visit?

A. I did not keep a record. I told you the pulse was approximately a normal pulse.

Q. What pulse did you find on the other visits?

A. About the same.

Q. What pulse did you find on the third visit?

A. About the same pulse.

Q. Doctor, do you want the court to understand then, that assuming a rupture of an inch and a half existed in the bladder, and that a hemorrhage occurred, that you would not have found a very fast pulse beat on the third visit?

A. I am only telling you what I found -- not what I ought to find.

Q. Then this patient you had there was out of the ordinary; is that true?

A. No. This lady complained of severe pain, and didn't have many manifestations of shock or collapse.

Q. Doctor, isn't it a fact that the immediate result of a rupture of that sort is a hemorrhage?

A. Maybe -- profound or slight -- either one.

Q. All right. Assuming it is slight; that will cause an increased pulse, will it not?

A. It may or it may not.

Q. Assuming that it covers a period of twelve hours and the hemorrhage continues, will that increase the pulse beat or not?

A. If she was suffering from shock due to hemorrhage, yes.

Q. Did you find any abnormal condition at all with reference to the pulse on your second visit?

A. So, there was no change; it was about the same.

Q. Then why do you tell this court that you believe on your second visit there was a rupture of the bladder when you found the pulse beat normal?--Heart action normal, and no temperature?

MR SMITH: We object on the ground it is argumentative.

MR DOMINGUEZ: I withdraw that question.

Q. Did you take her temperature, doctor, the first visit?

A. No, the temperature had been taken just previous to my coming there.

Q. I am asking you if you took it.

A. I am telling you I did not, -- in other words.

Q. On your first visit, you had one of these little instruments, of course, with which you take the temperature. You carry these things with you all the time? A. Yes, sir.

Q. You are a house doctor there at the St. Francis?

A. Yes, -- all of that.

Q. How long have you been there at the St. Francis?

A. Five or six years.

Q. Whenever you are called, of course, to attend a patient, you take all these things that will throw light upon the subject matter; isn't that true?

A. It is a matter of habit; you have them with you very often.

Q. I take it, of course, one of the first things that you did was to examine her heart action? A. Yes, sir.

Q. You found that normal?

A. Yes, took her pulse and saw what her temperature was, and I found the pulse quite normal.

Q. Did you make any physical examination of the patient?

A. Yes, I admitted that before.

Q. Did you uncover the body of the patient?

A. The body was uncovered most of the time.

Q. How much was uncovered?

A. She had no clothing on.

Q. So you were enabled, then, to see the entire body?

A. Yes, sir.

Q. Now, doctor, what manifestations of violence, if any, did you find upon her body at that time -- wait a minute -- I withdrew that question. A. All right.

Q. What did you observe as she was lying there, nude before you, on her body, if anything?

A. She had a black and blue spot on one of her arms, I think it was her left arm -- the fleshy part of her left arm -- might be an inch in length. That I might say was the only mark I saw on her body.

Q. Did you observe her limbs? A. I did.

Q. Did you find any contusions or abrasions on the limbs?

A. Not at that time.

Q. Did you find anything on the body -- xhxt xx

A. I didn't see anything to attract my attention.

Q. This bruise you speak of, that was superficial, wasn't it?

A. As far as I know it was.

Q. That might have been caused by somebody catching the woman?

A. I don't know how it was caused. It was there, and that's all I know.

Q. But that wasn't anything that attracted your attention as being

anything more than superficial anyway?

A. I don't know how it was --

Q. Answer my question.

A. I answered you, as I know. I don't know how it was done.

Q. It didn't attract your attention as being anything more than superficial, did it -- just a superficial bruise?

A. Well, it was an ordinary bruise, as I describe it first, --that was about as you would find it.

Q. How long did you remain, doctor, with her the first time that you were there?

A. Twenty minutes or a half an hour.

Q. Did you report to Dr. Rumwell the fact that you believed, mind you, that that girl was suffering from an internal injury -- and if so, when and where.

A. What did you say? Am I supposed to report to Dr. Rumwell things-- what is the idea of asking me?

MR DOMINGUEZ: We insist on an answer.

A. No, of course not.

MR [illegible]: I think in fairness to the witness he should be asked whether he had any conversation at all with Dr. Rumwell regarding the case. Of course if he had no conversation he had no opportunity to tell Dr. Rumwell what he thought about the case.

MR DOMINGUEZ: All right. Thank you, your Honor. Q. You left the case at the end of the fourth visit didn't you, doctor?

A. I think it was the fourth visit.

Q. And you knew the gentleman who took charge of the case subsequent to your leaving it, did you not?

A. Yes.

Q. His name is Dr. Rumwell; is that true?

A. Yes, that is true.

Q. You talked to Dr. Rumwell over the phone didn't you?

A. Yes.

Q. And the matter under consideration then was as to whether you had been paid or not for your services; isn't that true?

MR [illegible]: That is objected to on the ground it is not cross examination. Even the doctor has the right not to be insulted.

MR DOMINGUEZ: That is not an insulting question.

MR [illegible]: I believe it is.

MR DOMINGUEZ: I don't intend any such thing, and never will, during the progress of this case. I simply gathered from the testimony before the coroner that that was the standing of the conversation -- I withdraw the question. If my friend's entitle is so thin--

THE WITNESS: I am not your friend. Don't call me your friend. I don't want you to assume that at all -- not the way you talk to me.

Q. Doctor, you did talk to Dr. Rumwell?

A. Yes, over the phone, as you said before.

Q. You talked to the doctor over the phone?

A. Yes.

Q. And you did discuss Miss [illegible] with him, did you not?

A. Yes, sir.

Q. I want to ask you if in your conversation you told him what your diagnosis of that case was -- in other words I want you to tell the court whether or not you told him that you knew from your observations of her, that she was internally injured.

A. This was a conversation over the phone. I was not asked what my diagnosis was. I was not asked any of those questions you refer to now, by Dr. Rumwell.

Q. Did you tell him you believed she was internally injured, or not?

A. I was not asked that question. There was no reason for me to tell him.

Q. Did you tell him? A. No.

Q. So that as far as you know, when you finished your conversation with Dr. Rumwell he had no history of that case at all, did he?

A. He didn't ask me for a history of it -- but this woman whom I mistook for a nurse was able to tell him anything he wanted to know, as she knew all about the case, and had been on it during the night. So there was no reason for me -- she could tell him what he wanted to know.

Q. Did you give him a history of the case at the time you conversed with him over the telephone -- yes or no?

A. No.

Q. You ceased then, all connection with the case, doctor?

A. I was dismissed from the case.

Q. Who dismissed you?

A. The lady rang me up. The woman I had seen there -- and told me she had retained Dr. Rumwell, a friend of hers, that had cured her in the past, and did I have any objection to turning the case over to Dr. Rumwell, as she knew him and wanted him to have the case. I said I had no objection and would be glad to do it. That was all there was to it.

Q. That tenderness of the abdomen might have been caused by disease, might it not?

A. If you like. Pain in the abdomen can be caused by many things.

Q. It might be caused by an acute case of appendicitis. Is that true?

A. No, no; you would not mistake that for appendix.

Q. Appendicitis would cause a distention of the abdominal walls?

A. Yes; but there was no distention in this case at that time.

Q. There was tenderness, was there not?

A. But not over the region of the appendix.

Q. Isn't it a fact the entire abdominal wall may be involved where appendicitis exists?

A. Sometimes; but it will become localized later on.

Q. I am talking about an acute case where a man gets appendicitis suddenly, -- isn't it true sometimes that the appendix distends and is very tender --

THE COURT: We seem to be in the realms of speculation here. The testimony of all the other witnesses here show that all of the abdominal organs including the appendix and whatever there was contained, was in a perfectly healthy condition. What is the necessity of inquiring here on a mere matter of speculation?

MR. [illegible]: There is no matter of speculation. This gentleman has stated because there was distension there, and tenderness that he made up his mind there was a rupture of the bladder, and I am seeking knowledge if other conditions could not cause the same condition that existed there.

A. You are misquoting me.

THE COURT: Counsel is misunderstanding your testimony.

That you didn't come to the conclusion that there was any trouble with the bladder until you passed the catheter in the patient and found this bloody discharge.

A. That was the first time I knew that the bladder was --

Q. And doctor that was on your third visit to the patient?

A. Yes; that is right.

THE COURT: My only object here is to limit the testimony within reasonable limes.

MR DRINKOUT: Yes, your Honor. I appreciate that.

THE COURT: Go ahead, counsel. I don't want to distract your mind.

MR DRINKOUT: Q But, doctor, I understood you to say a few moments ago that if that patient had undergone a kidney lesion, that you might have found the urine in the same condition that you found it; is that correct?

A. Very much the same.

Q. Even though no bladder rupture had existed at all; is that correct?

A. All right -- if you like, yes.

Q. No, doctor, I want you to testify.

THE COURT: Answer the question, please.

A. What do you want me to say? That is what I want you to know.

Q THE COURT: You answer the question according to your own information.

A. This kidney lesion is so foreign to what we are dealing with, I can't answer it both ways.

MR GREEN: The doctor does not understand the intricacies of

cross examination.

MR [illegible]: In this case we are attempting to get the facts.

MR [illegible]: He is attempting to state the case.

MR [illegible]: Doctor, let me see if I can not make myself clear. Q. A man undergoing kidney lesions and passing urine, that urine going into the bladder, that urine may be bloody?
A. Yes, sir; a lack of urine. The kidney may not be secreting urine. So the picture may be very much the same.
Q. Therefore the fact you found the urine as you did find it was not, of necessity, exclusive of the fact that there was any bladder rupture; isn't that true?
A. Taking it as a composite picture -- take the signs and symptoms- I would say it was a rupture of the bladder and not of the kidney.
Q. Now, doctor, I take it that the rupture was producing -- or did produce a constant hemorrhage -- however slight?
A. It is hard for me to say. I haven't even heard the figures-- whether they found much hemorrhage free in the peritoneum, or peritoneal cavity--whichever you like.
Q. Did you find any temperature on the third visit?
A. No, she had no temperature.
Q. And her heart action was normal?
A. I would say it was about normal.
Q. How can you reconcile, doctor, the heart action normal - the temperature normal - and this internal injury that you speak of?
A. I told you that her pulse may have been slowed a little. I told you I never saw her under normal -- at least I knew I had never seen her under normal conditions -- under conditions when she was

healthy, --whether she normally had a faster or slower pulse than I found. I was unable to say. But there was nothing significant, or nothing to indicate any danger in the pulse, that I found. In fact the pulse was about what you would expect to find with this pain., and not more symptoms or signs of shock or collapse than there was.

Q. You didn't find any symptoms of collapse at all?

A. I told you that she was confused, so I was unable to talk to her, from the pain. But so far as profound symptoms of collapse or shock, she did not have them -- but she did have the terrible pain at all times, in the lower abdomen.

Q. A rupture will produce a shock and always does, doesn't it, a rupture of the bladder?

A. It may produce a severe shock and it may not produce very much shock.

Q. Would that cause an abnormal pulse beat -- would not that cause an abnormal pulse beat?

A. If the shock was sufficient, it would. As you said a few minutes ago, had there been hemorrhage enough with this tear so there would be loss of blood, it would make her pulse rapid.

Q. Tear say an inch long in the bladder, doctor?

A. Yes.

Q. And the consequent shock? A. Yes, sir.

Q. And the consequent hemorrhage?

A. If there were hemorrhage.

Q. Well, didn't your analysis of the urine show there had been a hemorrhage?

A. It doesn't take such a great deal of hemorrhage -- not enough

to weaken the patient, to discolor the blood. That bladder may have punctured in a portion where it was not very -- and there would not be a very large hemorrhage -- just enough seepage to discolor the urine, and not enough to fill up the peritoneum, as it would had a vessel ruptured.

Q. Shock and hemorrhage are practically together in a case like that, isn't that true?

A. Shock follows hemorrhage if it is sufficient to cause shock.

Q. You can get a shock without a hemorrhage, can't you doctor?

A. From other causes, yes, sir.

Q. Now the shock in this case, mind you, producing the hemorrhage, however slight, in your opinion, would not that have cause an increase in temperature as time went on?

A. Well, I didn't see any increase in temperature and there had not been any at first when we first saw her.

Q. You did not see any increase in temperature up to the last time you saw this girl?

A. I did not see any increase then.

Q. You didn't see any increase in temperature?

A. At no time did I see any increase in temperature.

Q. Didn't that strike you as most significant, you judging that she had an internal injury and no increase in temperature the very last moment you saw her?

A. This was rather early, and soon after her supposed injury, and she, as I said, manifested not many signs of shock or hemorrhage--not enough to change her temperature.

Q. You speak of blood in the urine? A. Yes, sir.

Q. Didn't that give you an idea as to when this shock occurred?

A. That it had occurred in the past?

Q. Yes. A. Yes.

Q. What idea did that give you?

A. Well just the idea, as you say, it occurred in the past --

Q. Could you form any estimate at all?

A. You couldn't tell by looking at the blood what time it happened.

Q. But the fact it appeared to be old blood indicated to your mind as a physician and surgeon, that the shock must have transpired some days before; isn't that true?

A. The shock might come on at any time -- you mean injury, not shock.

Q. I couple them together.

A. There is a difference, though. You may have a severe injury and very little shock. You might have a great deal of shock and very little injury.

Q. We will talk of injury. I will ask you if you did not have any idea as to the time when the injury had occurred?

A. It occurred in the past. That was all I knew.

Q. But you stated it was old blood?

A. Yes, sir.

Q. Didn't you then, when you determined that it was old blood, and that the injury had occurred in the past, didn't you think it was most singular that there was no increase in the temperature and no increase in the pulse beat?

A. No, I didn't.

Q. Explain that, doctor, why not.

A. Had there been other symptoms -- had the severe pain in the

abdomen that remained constantly and became localized more and more in the bladder region, been accompanied by a profuse sweat, or anything that didn't happen -- those would be signs of shock or collapse. Then you would expect a change in pulse or temperature. Now whether her pulse and temperature had changed before I saw her -- or whether shock occurred afterwards, I don't know -- and whether the symptoms and signs that were there were with it, I don't know -- but on the occasion I saw her there wasn't symptoms of shock and collapse enough to cause change in her pulse and temperature -- and it had not been long enough following the first injury for an infection to have started in, which would not be for several days following -- which would cause a temperature.

Q. Then I understand you to say that infection would not set in until several days after a rupture of this sort?

A. Yes, you would not expect it for several days later.

Q. Would not that depend largely upon the physical condition of the person interrogated?

A. Yes, sir.

Q. You did not know anything about that, did you?

A. I saw the patient; I had some idea of her physical condition.

Q. You had no history of the patient's life from the standpoint of a doctor? A. No, sir.

Q. From the standpoint of medicine?

A. No, sir.

Q. So you did not know what the condition of her blood was, at all?

A. No, sir, I did not.

Q. So that peritonitis might set in the case, depending entirely

upon the condition of the blood of the person involved; isn't that true?

A. In a case of that kind you would expect that peritonitis might complicate the case.

Q. And set in within probably two or three hours?

A. No.

Q. Infection would set in, isn't that true, doctor?

A. No. This blood would have to be free and the urine would have to be free in the peritoneal cavity for some time, where infection would manifest itself before peritonitis would commence.

Q. Did you make any microscopical examination of that blood?

A. As you know, I only saw the case during that night and I was relieved -- Dr Rumwell took the case from that time on. And a microscopic examination of that urine --

Q. That is what I mean, doctor?

A. Yes, sir. Would have merely revealed what you could see with the naked eye -- that there was blood in it -- and that is all--

Q. A diagnosis of the blood would have revealed more than that?

A. What do you mean "more"?

Q. Would it show you how many white corpusules were there and red corpusules?

A. That is why you are trying to get the case to the hospital, to obtain those tests. You can't do that in a hurry where they are ill--

Q. If you were trying to get this case to the hospital, why didn't you report this matter to the proper authorities and send this case over there--

MR O'NEW: I object to this as incompetent.

THE WITNESS: You know I would not have that authority -- you know better than that.

THE COURT: I think the question is improper -- ruled out. The objection is sustained to the question.

MR. [illegible]: Q. Doctor, if you thought it was such a grave case --One of an internal injury, and one that required surgical attention, why was it that you didn't tell all those facts to the doctor that you knew succeeded you in charge of this case?

A. It isn't customary to tell those things unless you are asked. The doctor does not want to be prejudiced, and he does not want to be told by somebody else about a case. He wants to find out for himself. He doesn't want to be told anything. If he wants to know then he will ask you.

Q. I understood you to say the first thing a doctor did when he went to attend a patient was to get a history of the case from any person who knew anything about it.

A. No, I didn't say any person that knew anything about it. I didn't put it that way.

Q. You did state, from anyone who had direct knowledge of the conditions of the patient?

A. Those who were there. You would naturally get a history from the persons who knew about it.

Q. I assume, then, the natural person to tell Dr. Cumnell the condition of that patient -- what was found-- the condition of the urine, the general condition of the patient, would be the doctor who had the case in charge?

A. You are not upbraiding me for not doing something I wasn't asked,--

because no conversation was on the phone -- If he wanted to know these things he could call on me. He can find out these things for himself just the same as I can.

MR [illegible]: Mr. Dominguez; is not acquainted with the ethics of the medical profession.

MR DOMINGUEZ: Oh, yes he is.

MR GORDON: How do you know?

MR DOMINGUEZ: Because our physician has charge of two thousand doctors in Los Angeles.

THE COURT: Are there two thousand physicians in Los Angeles? I thought people did not get sick there.

MR DOMINGUEZ: That is due to the fact that many people come there from other places, Judge.

Q. The last question I want to put to the doctor: All I want to know doctor, is whether you did what doctor--

MR O'MEARA: We object on the ground it has been asked and answered a dozen times. The record stands he did not tell Mr. Rumwell, because Mr. Rumwell did not ask him, and he has given his explanation it wasn't necessary to prejudice the other doctor regarding the case unless the other doctor asked; and if he asked he would have told him. What more could we get?

THE COURT: I think there is quite enough along this line. It seems it has resolved itself down to a matter of professional etiquette amongst doctors, and I assume from Mr. Reardale's reply, that he wasn't expected even to tell the doctor succeeding him anything about his knowledge of the case unless he was asked; that the other doctor would probably resent his making any suggestions. In fact

the testimony also shows that the other doctor had the same opportunity to ascertain the condition of the patient and the circumstances of the case as Dr. Beardslee had -- except insofar as Beardslee might have subjected her to any treatment -- and I presume if the other doctor had asked Beardslee regarding the nature of his treatment of the patient, that he would have been only too glad to inform him.
A. Glad to help him, or inform him, because I have a very good opinion of Dr. Russell -- help him in any way.

MR [illegible]: That question is ruled out, your Honor.

THE COURT: Yes. It is ruled out because I think we have gone far enough into this line. The object of the examination is to bring out the facts, and I think that any facts that we can obtain from Dr. Beardslee along this particular line, have been ascertained.

MR [illegible]: Q. Doctor, when you went up in the room I understood you to say you found two persons in the room on your first visit?
A. Yes, on the first visit.
Q. Byt the way, doctor, this catheter that you used -- this one that is here is a metal catheter?
A. Yes, sir.
Q. Did you ever use a glass catheter on her?
A. No, not on her, but it is used very frequently, though, in hospitals and about -- but it is rather hard to find in a hospital kit, because they are liable to break or crack.
Q. This is one of the larger catheters, is it not?
A. It is about the regulation size.
Q. About the largest one that you use, isn't that true?

A. No, you could use a much larger one in a female urethra without any resistance.

Q. By the way, doctor, while you were using this catheter, perchance did you notice anything about the vagina that called your attention?

A. No. Of course I didn't make a thorough examination. I merely, as I say, separated the lips and inserted the catheter, and that is all.

Q. Did you notice any offensive discharge?

A. No, I didn't notice anything abnormal.

Q. Now with reference to the lady -- the other lady who was there -- Mrs. Delmont, I believe is her name?

A. There was only one. I don't know her name.

Q. When you first went in there, did you find her in bed?

MR [illegible]: Just a moment. That is not cross examination.

THE [illegible]: The objection -- was there an objection?

MR [illegible]: I think it is not cross examination.

MR [illegible]: The doctor stated he found them both there.

THE [illegible]: Go ahead. The objection is overruled if there is one. It was just a suggestion.

A. No.

MR [illegible]: You say you found her going backwards and forwards?

A. No, I didn't say that.

Q. Walking here and there, as I understood you?

A. No.

Q. Where did you see her?

A. No. I said she was restless and gave symptoms or signs of

excruciating pain.

THE COURT: No, he is speaking of the other lady.

A. Oh, the other lady. Yes, she was up and about and taking care of this patient, and I thought she was possibly a nurse, from the way she went about it.

Q. Did you notice anything about her legs that attracted your attention?

MR GOLDEN: Whose legs?

MR DOMINQUEZ: Delmont's.

A. No. They all look alike to me.

MR DOMINQUEZ: I don't know about that, doctor -- not now.

Q. By that I meant, doctor, this. I meant did you observe anything about her eyes that would attract your attention?

A. No.

Q. Mrs. Delmont's eyes? A. No.

Q. Did you notice anything about her speech that attracted your attention -- Mrs. Delmont's?

A. Not any more than she impressed me as being very positive, is all.

Q. Nothing incoherent in what she said?

A. No. In fact, much the opposite -- very much to the point; and in fact rather arrogant.

Q. Was that arrogance due, in your opinion, to her having used any alcohol or morphine?

A. No; I thought it was her natural manner. She took charge of everything, and was the boss.

Q. Did you observe her. When you were there on the first occasion--

open her pocketbook?

A. She may have opened it; I don't remember.

Q. On any occasion that you were there.

A. She may have opened it. I don't remember in regard to that -- about a pocketbook; I don't remember that I saw one.

Q. Did you observe her at any time take a white powder.

MR [illegible]: Yes, if your Honor please, we are going to object to this on the ground it is incompetent, immaterial and irrelevant, and not proper cross examination. I was perfectly willing to let counsel go into Mrs. Belmont's condition, and the doctor has described it-- Now --

THE COURT: I don't see the object. We are not trying this lady.

MR [illegible]: I will withdraw the question, though I think it is absolutely proper, in my mind.

THE COURT: All you have to do is to state a good reason for asking the question -- a good reason in law, and possibly the question will go in -- but I can not see any reason.

MR [illegible]: I won't press it. It is all right.

MR GOLDEN: Which means there is no good reason.

MR [illegible]: It doesn't mean anything of the kind.

MR [illegible]: If counsel had a good reason -- let us have no camouflaging here. If there is a good, legitimate reason why this question should be asked.

MR GOLDEN: When counsel was cross examining Mr. Sommaker, counsel said, "I am directing something which will appear later. I think we should have that privilege.

MR [illegible]: Every question which was asked Mr. Sommacher was legitimate cross examination. The question that was asked of this witness is illegitimate cross examination and not sanctioned by any rule of law known to the profession -- can not. If counsel will show to your Honor a good reason for asking the question, we will withdraw the objection.

MR [illegible]: If your Honor please, the doctor says he procured a certain history from a certain woman. If we can show that person is incompetent, or she was in such a frame of mind that the history which he procured from the woman is unreliable, certainly it is competent testimony.

THE COURT: The claim of counsel for the defense seems to be this: that this lady through whom the doctor got his information, was incapacitated through some reason, evidently by reason of taking some white powder which distorted her mind from giving the doctor a proper history of the case of her friend, who was in the room with her. On the other hand the doctor testifies the woman seemed to be perfectly coherent -- rather arrogant and direct in her assertions-- dominating and somewhat overbearing, and gave no indications of intoxication. There was nothing about her voice or appearance to excite any suspicion on his part. Therefore what bearing would the taking of this powder have upon this lady -- her credibility-- or the character of the information that she divulged to the doctor?

MR [illegible]: Certainly the doctor's answers don't bind me, and I have a right to refresh the doctor's memory and make inquiry along those lines, whether the doctor will remember --

THE COURT: All right, we will permit the question for what it is worth, but I don't think it is worth much. Anything that is elicited in response to the question would not have very much bearing in view of the other testimony given by the Doctor.

MR DOMINGUEZ: I believe that is a fact, Judge.

THE COURT: I will allow the question, whatever value it has. Can you find the question after this extended colloquy, as Senator Shortridge would have expressed it?

(Question referred to read by the reporter)

A. No.

MR DOMINGUEZ: I understood you to say something about gas -- that you believed that that distension of the abdomen -- mind you -- might have been caused by the pressure of gas?

A. You misunderstood me again. I told you that this woman suggested it might be gas in the abdomen, and that I assured her -- I don't know whether I told you -- I don't think you permitted me to tell you that fact -- she did not have gas in the abdomen. But it was natural to suppose that she so used to gas -- and I would not think she was very wrong in order to that conclusion.

Q. That would be the natural conviction from the condition you found there?

A. That would be the natural thing an outsider would think, if it had been in the belly, it would be due to gas. That is what she thought. I said there was no gas -- but if she cared to she might give her an enema. It might relieve the bowels. It couldn't do any harm -- as the old lady said -- it might do some good.

Q. In passing, doctor, did you not find any condition at all to warrant you in believing she had been on a general debauch?

A. From poison -- no.

Q. You saw no marked signs of alcoholism?

A. No. As I said, had there been signs of a debauch, or that she drank something, it was already overshadowed by this terrible pain-- this pain was the thing that you would observe at the time, and I saw no evidence of alcoholism.

Q. You didn't make any move at all, after the first visit, when you had in mind a vague suspicion that it might be due to an internal condition -- this pain -- take her to a hospital and operate on her?

A. I thought I made that clear to you that right from the first I had told them it was a hospital case -- and that a case of this kind with an internal injury as we supposed we had, might need surgical interference at any time.

Q. I understood you to say, doctor, you did not make up your mind on that internal injury business until you had seen the result of your used catheter?

A. I told you at that time I wasn't able to localise the internal injury until I saw the result of the catheterization, which pointed clearly to the bladder. Then I knew it was bladder, and how much more than bladder, I had no evidence at that time.

Q. That could have pointed just as clearly thereto, to a kidney lesion, couldn't it?

A. No; not just as clearly.

Q. You draw a defined distinctness, then, to you, as between the

localizing, where the internal injury was between the bladder and the kidney, do you?

A. With the picture that I had before me, and the urine, I had a classical of a ruptured bladder. There was no stone left out. But it been a kidney complicating this condition, or had there been kidney trouble, you would have other symptoms in other regions -- you would have had other things to consider.

Q. And, doctor, observing what you observed, doctor, and believing as you did, what would have been the first and paramount duty?

A. To stop that pain.

Q. All right. Immediately after giving this injection, what would have been the duty?

A. To advise the people as to what was best to do for the patient's welfare.

Q. And in this particular case it would be to advise an immediate operation; isn't that true?

A. No, no. I hadn't reached that. I had not gone that far yet -- me--first, would be to get them to a hospital. You couldn't operate them until you got them to a hospital. I already advised to go to the hospital.

Q. Did you advise them and there, when you made up your mind there was a ruptured bladder, an immediate operation?

A. I didn't tell you I diagnosed her a ruptured bladder. I told you that I knew the bladder was at fault.

MR. SMITH: Confirmed. I think you used the word "confirmed"?

A. Yes, confirmed. But I didn't tell you I had made a diagnosis

at this time.

MR [illegible]: Q. What would cause a hemorrhage except a rupture?

A. Being blood in the urine--

Q. No, no; we got off that subject. After you determined that the complication existed in the bladder, what else could cause the urine to be bloody as it was, except a hemorrhage?

A. You didn't mean to ask me how you get blood without a hemhorrhage?

Q. Doctor, please answer my question. You are a learned gentleman on these things and I am not. I didn't pretend to know what you know about it. If it is not intelligent I will change it.

A. You better change it then.

Q. A hemorrhage in the bladder, doctor. Is that plain to you?

A. But you didn't say in the bladder then. You said a hemorrhage.

Q. I will put in those three words "in the bladder"?

A. That makes a big lot of difference, and you know it.

THE COURT: Now answer the question as it has been revised, doctor.

A. It is so nonsensical you can not get an answer to it. Would you mind reading it once more and I will see if I can not give him an answer.

(Last question referred to read by the reporter)

A. Would you like me to enumerate the things that could cause a hemorrhage in the bladder. The hemorrhage must be in the bladder?

Q. Oh, no. The -- . A. Or blood in the urine?

Q. Yes, blood in the urine.

A. Any bleeding in the urethra might cause blood in the urine, but

it would not be the same color or the same kind of blood that we had on catheterization.

Q. Yes, sir. What else?

A. Had there been any inflammatory condition on the internal surface of the bladder you might have some hemorrhage from it -- any inflammatory condition. I think that would take in nearly everything, too -- such as lacerations, growths.

Q. So, doctor, when you made up your mind there was an internal injury, you can't tell what that internal injury was, nor where it was, could you?

A. Not until you had made an exploratory incision.

Q. And you didn't make that one, did you?

A. No.

Q. Therefore your conclusion that there was an internal injury, saying that it was in the bladder, but somewhere in the region of the abdomen; is that correct?

A. After the catheterization I knew there was an injury in the bladder.

Q. I thought you just told us a moment ago you couldn't tell us until there had been an exploratory incision?

A. No, I didn't tell you that.

Q. That exploratory incision --

A. You couldn't tell where it was until you make an exploratory incision. You would think it was in the bladder, but you would not know until you had opened the abdomen, then you would know. That would be the thing to do -- open the abdomen.

Q. So you had no authenticated opinion at all at any time while you treated Miss Hayes, as to the exact cause of that internal injury, or where it was, did you?
A. I didn't know anything about the cause of it. You know I didn't know that. I met only seen her when she was ill.
Q. Doctor, by the way, you have been out hunting, haven't you?
A. Yes, sir.
THE COURT: He looks like it.
MR DOMINGUEZ: Yes, he does. He looks fine.
Q. When you were coming south, doctor, you met a sheriff up here in Mono county?
A. Yes, sir.
THE COURT: Traveling too fast in a machine, doctor?
THE WITNESS: No, he is a patient of mine, this sheriff. I used to meet him every year up there. And I went up to see his family--before he received the news that I was wanted.
MR DOMINGUEZ: Q. And you conversed with him where -- where did this conversation take place,up in Mono county some place?
A. Yes, I was going to dinner. I just arrived from out of town -- been out on a hunting trip with other parties and was just entering the dining room and he came up and asked me if there was any reason why I would not want to go to San Francisco and testify. I told him none in the world, but I would hate to give up a good time and go down there and get mixed up in the --
Q. Doctor, you told him in a conversation, upon his asking you, "What is this all about?" and you said to him, "The whole trouble

was with a girl that was too much high life?"

A. No, I think you are mistaken.

Q. Never mind. I think a whole lot -- even with that black head of mine.

A. Yes, and you are not as smart as you think you are. You are not showing it.

Q. Did you tell that gentleman in substance and effect that in your opinion in the case, a death was due to too much high life?

A. No, I don't think Sheriff Dolin asked me any particulars of the case at all. The only thing I remember him asking is, "Is there any reason, doctor, you would not want to go back to San Francisco and testify?" and I assured him there wasn't -- and went on and had my dinner.

Q. Doctor, by the way, did you arouse the flanks of this individual, Miss Rappe?

A. What region do you mean by the "flanks?"

Q. Around through there (pointing)?

A. No, I did not.

Q. You couldn't tell the , whether they were sensitive or dull?

A. She was hypersensitive at all times--supersensitive. You couldn't put your hand on her without her screaming with pain.

Q. Did you put your hands on her flanks and arouse them -- I am asking you. You said no?

A. Yes, I said "no".

Q. You have had some experience with bladder trouble--you have treated bladder trouble?

A. Yes.

Q. And in order to determine the cause of bladder trouble you make an inspection of all the pelvis organs or the pelvis region in an attempt to find out what the main cause of the trouble is; isn't that true?

A. Yes. You might make a thorough examination, and in the way of--by way of--you would go over them thoroughly.

Q. If you had any suspicion at all, at any time, doctor, that there was some trouble with the bladder here, why didn't you percuss the flanks?

A. I think that percussing the portion of the body that you felt of there, would be about the last thing I would do.

Q. Where would you?

A. Over the region of the bladder.

Q. So in your treatment of the bladder trouble you would not percuss the flanks?

A. I don't know what you mean "flank". If you mean the flank where you put your hand when you stood up?

Q. Listen here, doctor -- right in through there -- over there -- right along there -- see? (Indicating a spot right over his left hip pocket)

A. You did not do that -- not in the back.

Q. Around here? A. In the front, yes.

Q. Around on the side, like this here.

A. I may have reached over that way in my percussing.

Q. You may have done so. Then you do do that in a treatment when you want to determine the cause of the bladder trouble; isn't

that true?

A. I don't know what you are trying to get at there.

Q. Well I am going to try to get at it--just a moment--I will withdraw all that. I want to know, doctor, if you remember perceiving any part of the--

A. Yes, I told you before I did, over the region of the bladder.

Q. Anywhere else?

A. No -- just so I would know the condition of the bladder, that is all -- and the region of the bladder -- that is all. I had no reason to peruse her buttocks at all.

Q. What do you understand by the flank of the human anatomy? Point it out to us, doctor. A. Flank?

Q. Yes.

A. Well, it is a term which is seldom used except by a butcher or a horse trader or something that way.

Q. So that in the anatomy such a thing as the term "flank" is not known, according to you; is that true?

A. I am not saying it is not known.

Q. Did you ever study anatomy, doctor?

A. You know I have. Why do you ask that question?

Q. Then I am asking you if the books don't use the word "flank"?

A. It may have been used at times, but there are better terms.

Q. Which is the better word, then?

A. For flank?

Q. Yes. A. I would rather -- like upon the groin, or the hip joint. You could lick out the spot by any bony landmark.

Q. I thought they were butcher terms.

A. Maybe you did. I would not be surprised.

Q. You have the same opinion. Now I am going to ask you again, doctor, if in your study of anatomy in Little Wells on Anatomy, if you haven't read the word "flank" there repeatedly in reference--

A. It may be used at times. I am talking about this time.

Q Did you percuss those flanks of Miss Rappe?

A. I believe I percussed all the area of the bladder -- the region of the bladder. Now you can call anything you like a flank.

Q. If you suspected bladder trouble, doctor, why didn't you percuss the flanks to find out whether they were sensitive or dull?

A. I told you in the first place I had percussed the region of the bdmdde and found there was no flatness there. That is why I contradicted this woman and told her there was no urine in the bladder.

Q. Doctor, you have heard of spontaneous ruptures haven't you?

A. Yes.

Q. Did you ever treat any?

A. No, I only heard of them. You say it right when you said "heard of them". You had it right. They are rare.

Q. You never heard of a man jumping out of a wagon, or that sort of manner --

A. Fall on his buttocks and rupture his bladder?

Q. No.

A. Well, that has been done, too.

Q. Over-distending, mind you, in a bladder, where the walls are very thin may cause a spontaneous rupture?

A. Yes, when inflamed condition or great inflammation might do it.

Q. Assuming, doctor, for a long period of time, a person has been treated for bladder trouble, and had been under the direct attention of a doctor for bladder trouble, assuming further that it was a small (?) bladder and the walls of that bladder were abnormally thin- assuming further she had not passed water for a period of 24 hours; and assuming further, doctor, that during that time it had been dribbling over the top of the bladder; and assuming further she had made efforts, doctor, to pass water, under that condition, doctor, could there be such a thing as a spontaneous rupture?

MR [illegible]: We object to that as incompetent, irrelevant and immaterial; based upon something not in evidence, and not cross examination.

THE COURT: It might be based upon something possibly that might be put in evidence later on.

MR [illegible]: Then we will have no objection, if your Honor please.

MR DOMINGUEZ: I made no objection yesterday.

THE COURT: Most of the facts involved in this question are not matters of evidence here yet.

MR DOMINGUEZ: I think so. Probably one or two phases of it are not in evidence. That is all right, doctor, I withdraw the question.

Q. Now a bladder with a thin wall that has been subjected to treatment for organic disturbances is more easily ruptured than an ordinary bladder that is absolutely normal and never has been treated, doctor?

A. Yes. We said that a while ago.

MR DOMINGUEZ: That is all. Thank you, doctor.

THE COURT: Q Is the normal, ordinary urine , or does the urine itself or its discharge in the abdominal cavity set up an infection?

A. It may contain bacteria in the bladder, and when this urine is set free in the peritoneal cavity, the infection starts in and peritonitis follows. It is media for the bacteria that may be contained in the urine.

THE COURT: Any redirect questions?

MR O'NEIL: There will be some redirect, and I ask that we take an adjournment until 2:30.

(Further proceedings continued until this afternoon at 2:30 o'clock.)

AFTERNOON SESSION

DR ARTHUR BEARDSLEY (Resumed)

MR O'NEIL: Q Doctor, during the cross examination by Mr. Dominguez, something was said about spontaneous rupture; did you ever have such a case in your practice?

A. No. I have never had a case of my own.

Q. Did you ever hear of an authenticated case of a spontaneous rupture?

A. I have read and known of cases that were put under that heading of spontaneous rupture. They may have been classified that way because there was no real -- no known cause for the rupture of the bladder.

Q. Is that the theory of spontaneous rupture asserted by the medical

profession without reservation of any kind?

A. No, it would be expressed with reservation, because one reason you would call it a spontaneous rupture would be because you didn't know what did rupture the bladder. It occurred spontaneously without cause -- known cause.

Q. Mr. Dominguez asked you if violent vomiting would cause a rupture of the bladder. Did you ever have such a case in your own experience?

A. No, I never had a case of my own. Had it --

Q. But in your experience in the hospitals and in your reading, you know that you have read or have seen cases, or have known of cases that come under that heading.

Q. And would that rupture be caused by the vomiting itself?

A. I tried to make that clear to Mr. Dominguez at the time.

MR. [illegible]: You made it clear to me. I don't know as it is necessary to repeat it. You said the vomiting would not cause a rupture, but it was the contortions of the patient that might possibly cause the rupture?

A. Yes, sir.

MR. [illegible]: Q. Doctor, did you ever know of a person in your experience who suffered contortions merely from vomiting?

MR. DOMINGUEZ: That is objected to on the ground that it is incompetent, irrelevant and immaterial and no foundation laid. No one claims that.

THE COURT: I will overrule the objection. It just asks for the doctor's experiences.

A. The patient might vomit until they become weak, and fainted,

and fell and ruptured the bladder.

(Last question read by the reporter)

A. Yes.

MR O'NEIL: Q. Now this examination that you made of the body for the purposes -- was that a minute examination or a casual examination?

A. No; that was a casual examination. I wasn't looking for bruises, particularly. I saw the bruises on the left arm without any more than the ordinary observation that you would give to a patient -- and seeing what you could see as far as location was concerned.

Q. Now when you inserted this catheter, did you make an examination of the vagina?

A. No.

Q. What part of the body of Miss Hayes did you percuss in order to make this examination -- just indicate to the court where you started on one side to the other?

A. In percussing for the bladder, you would percuss between the anterior superior spines -- between them -- and over the symphesis pubis. Those are the bony landmarks that would give you the area that would be necessary to percuss.

Q. And below what, doctor?

A. From the anterior superior spine up to the symphesis pubis.

MR O'NEIL: I think that is all.

MR DUMPSON: Q. Doctor, isn't it a fact that scientific men in these days use a rubber catheter more than they do a metal one?

A. Well, it is a matter of selection.

Q. Isn't it a fact that as a matter of fact, rubber and metal--

rubber and glass are the ones used instead of metal?

A. Well, I think that is a matter of opinion. One seems to be used about as much as another. If you were asking a nurse to bring a catheter, or a catheter to sup(?) a bladder before a person goes to an operation -- or at any other time-- the nurse would think you were kind of fussy if you would tell them to use a rubber, or a glass; they would use the regulation catheter of the hospital,-- and any one of those three would answer the purpose.

Q. I am speaking of a scientific man, not a nurse.

A. I mean, in your instruction to the nurse--I don't know if you designate unless you had some phobia or fear. You may have had some reason, thinking a glass catheter had been cracked in boiling. You might not want to use one on that account. You might not want to use a rubber one because it isn't as easily cleansed as a glass one. There might be different reasons--and it might not be well founded.

Q. Isn't it a fact a metal catheter is practically obsolete in its use by scientific men?

A. No, I think that men--specialists--in fact I know that they do-- use a metal catheter. For instance, in both male and female the metal catheters are used more. You might use a rubber or glass, whatever you like, but I know I have seen more in the operating rooms, and more used by a specialist, as I recall it-- use metal or silver catheters than any others.

Q. You sterilized this catheter of yours in your office?

A. In my room. I was in the hotel.

Q. How did you sterilize it? A. Boiled it.

Q. Did you have boiling water there?

A. There is always boiling water there -- and you could boil it, too, if you liked-- and put it through alcohol or any antiseptic solution.

Q. Did you put it through an antiseptic solution?

A. Did I?

Q. Did you on this occasion? A. I always do.

Q. What do you use? A. Alcohol.

Q. You now remember specifically in this instance you used alcohol?

A. Every instance.

Q. No, but in this particular instance.

A. That one as well.

Q. Then you put that catheter and put it in your kit, did you?

A. No, no; no, no.

Q. What did you do? A. I took it out of the kit.

Q. You took it out of the kit and sterilized it, didn't you?

A. Yes. Then I wrapped it in sterile towels and dressings that you have to protect it--in hotels that way they keep dressings at night, and I put them in my bag in the hospital so it can be handled properly.

Q. And you did carry up this catheter in sterilized canvas, did you?

A. Yes, in canvas and towels--sterilized towels.

Q. Then what did you do with it?

A. I brought it to the bedside. Then I prepared the patient surgically.

Q. In taking it up to her room--you lived on what floor, doctor?

A. The eleventh.

Q. You had to come down didn't you?

A. I had to go up.

Q. One story? A. One flight.

. Now after you sterilized this catheter you put it in your kit, didn't you? A. No I carried it in my hand.

Q. None of it exposed, I take it.

A. I was very careful. There was no chance of . It is possible, doctor, in the hands of the most scientific gentleman, that in the use of a catheter, a rupture of this very sort may happen; isn't that true?

A. Not under these circumstances. It would not be possible.

Q. Well assuming now that the bladder was half empty, isn't it possible, miss you, that the catheter may have been pushed in too far?

A. You could hit that catheter with a hammer, and you couldn't drive it through--if you did it would hit a solid background. If you examine that catheter. They are made for that purpose--especially where it is loose and has that opportunity to give. It is so short -- maybe you don't know -- it is about an inch and a half, the distance you have to pass this catheter, to the mouth, is very little longer. The minute you enter the neck of the bladder the urine flows, and there is no possibility to rummage around with a catheter. It is as simple as can be in anyone's hands.

Q. Haven't you known in your experience, and from the books, that ruptures may been caused by the use of a catheter in the

hands of a very scientific man?.

A. I never knew of a female soldier being punctured by a catheter of that length and that type. I never heard of one. It is done so many times every day in every hospital you would think that sometimes they might--it is a very rare thing if it ever occurre . I have never seen it.

. You say it is a rare thing, but it has happened hasn't it?

A. Not to my knowledge.

MR DOMINQUEZ: That is all. Thank you, doctor.

THE COURT: One second, doctor. Regarding bruises. How long would it ordinarily take for a bruise to appear after the blow or a concussion, or whatever it may be that caused the bruise?

A. Well, your Honor, that would depend on so many factors that it would be hard to state a fixed time in which the ecchymosis, or the extravasation of blood, or the of the blood would extravasate into those tissues, and would become noticeable, and the different changes that the tissues would undergo with this extravasation of blood in them.

Q I suppose it would depend on the amount of blood?

A. And how much was done, and the tissues and their vascularity.

MR DOMINQUEZ: Q By ecchymosis you mean black and blue spots?

A. That is all ecchymotic.

Q. As a matter of fact, that would depend entirely on the thinness of the tissues upon which any violence was used, as to how soon the black and blue spots would appear; isn't that true?

A. I would rather you put it the way I said, the vascularity of the tissues -- the amount of blood there, and the amount of injury done to the blood vessels.

Q. You want us to understand that an anaemic person would not indicate that condition as near as a person as full-blooded as you and myself?

A. You don't understand me. There are some parts are as vascular as others -- when they slug you in the eye, you get a black eye because of this vascularity, and you get an ecchymosis which you might not get in other places not so easily marked, because it doesn't rupture blood vessels.

Q. Would you say that the black and blue spot in an ordinary person would show as quickly -- mind you - as in case of the eye -- in an ordinary person?

A. It would take a more severe blow on the fleshy part of the arm where I think I remember seeing this -- if you got the same one in the eye there would be a little more extravastation of blood.

Q. In other words, the eye would show the result, the black and blue condition, much sooner than the arm?

A. Yes, because of the tissues that are there.

Q. It would take more violence on the arm to show a condition of black and blue than it would on the eye?

A. Yes.

Q. That is because the nerve centers of the eye are more --

A. (Interrupting) No, the blood supply -not the nerve centers.

Q. But blood supply, is that no blood was there?

A. There is a nerve supplying the blood vessel that doesn't enter into this very deftly -- it is rather secondary , the nerve supply to the vessel.

Q. Is it possible, doctor, that in some particular individual regardless of lesion or trauma, there could exist just such a condition as you describe--black and blue--due to organic or functional disturbances?

A. Yes. But it would be rare. That would make an extravasation of blood without any reason or cause for it. There might be. It comes under the head, hemma thelis -- that is a condition called bleeders -- but it bleeders, if you like; that is more commonly used. It does not take much to cause an ecchymosis -- a bleeder.

Q. You do find such cases in the books?

A. Of a bleeder -- that is a hereditary thing that is transmitted from mother to child.

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A. SOMMACHER (Resumed)

REDIRECT EXAMINATION

MR DENISON: Q. Mr Sommacher, you have already been sworn in this case haven't you?

A. Once.

Q. No, pardon me; in this court you have been sworn in this case?

A. Yes, sir.

Q. Please don't consider me impertinent if I appear to ask impertinent questions. When you left for Los Angeles of course you intended to be gone for several days didn't you?

A. One day.

THE COURT: Now counsel, so you will get this straight-- do you mean on the second occasion?

MR DENISON: Yes, your Honor. No, on the first occasion, Mr. Sommacher.

A. September 3d, you mean?

Q. Yes, sir. A. One day.

Q. You intended then simply to go to Reno and return?

A. And return.

Q. After you got there, for reasons of your own and other reasons, you came to San Francisco?

A. Yes, sir.

Q. You came to the Palace Hotel? A. Yes, sir.

Q. And you registered at that hotel? A. Yes, sir.

Q. May I ask you what rooms you occupied?

A. I don't know the number.

Q. Well, may I be permitted to ask you, then, if the ladies

in the party occupied adjoining room to you?

A. Yes, sir.

Q. In other words, the door between the rooms could be opened at any time?

A. I believe it could.

Q. Well, don't you know as a matter of fact it could-- that door could be opened?

A. It could.

Q. You did open it, isn't that true? A. I did not.

Q. Well did anyone open that door? A. I don't remember.

Q. Now you reached there and you took -- it was a suite of rooms, wasn't it? A. Two rooms. Each was separate rooms.

Q. By the way, Mr. Semmacher, I understand you to say you were Miss Rappe's manager?

A. I have been misquoted.

Q. Pardon me. I don't intend to misquote you in the slightest way, Mr. Semmacher. You had only known her, as a matter of fact, for about five weeks, isn't that true?

A. About five years.

Q. But you hadn't known her very well except for about five weeks?

A. About six weeks.

Q. And prior to that time you had no acquaintance beyond a casual one, of her? A. No.

Q. You had never managed her in any picture?

A. Never.

Q. And you had never placed her on the screen? A. Never.

Q. Your relations with her had just been those of a casual acquaintance? A. Absolutely.

Q. And within six weeks time you brought her to San Francisco, your relations with her changed; is that true?

A. To what extent?

Q. That is a pertinent question. You became better acquainted with her? A. Socially?

Q. Yes, sir. A. Yes, sir.

Q. You did not manage her within those two weeks?

A. Never managed her.

Q. You didn't attempt to place her in any picture at all that anybody had? A. I did.

Q. Well, Mrs. Belmont you did know, didn't you?

A. I have met her three times in four years.

Q. You have known her for a long period of time?

A. I have met her three times in four years.

Q. But you had known her prior to four years?

A. Never.

Q. Now the last time you met her was in front of the Gaiety Theatre in Los Angeles?

A. I believe the 30th of August, on a Tuesday.

Q. And then you and she agreed, without relating the conversation--about to go to Selma? A. Yes, sir.

Q. In the meantime you requested Miss Moore to assume way you; is that it? A. Yes, sir.

Q. Did you tell her who was going along?

A Certainly.

Q. You introduced Miss Maggie to Mrs. Belmont didn't you?

A. Yes, sir, or vice versa -- either way.

Q. Well, whatever it was -- I don't know. Well, prior to the time of your introduction of these two parties, you had no knowledge -- personal knowledge -- of any personal acquaintance existing between the? A. None at all.

Q. Well when you got to Selma you made up your mind to come to San Francisco as you have related?

A. The next day.

Q. Well whatever time it was? A. Yes, sir.

Q. Then you came to San Francisco and you registered at the palace?

A. Yes, sir.

Q. What attorney did you talk to, Mr. Gallagher, after you made up your mind to go to Los Angeles on this trip, if anybody?

A. What attorney?

Q. Yes. Repeat that question, please, Mr. Gallagher.

(Last question read by the reporter)

MR DUNNING: Pardon me. Withdraw the question, with his Honor's permission.

THE COURT: Withdrawn.

MR DUNNING: You told Maudy -- by the way, that last name of Maudy, by the way -- did you always call that to Mrs. Belmont -- you only met her three times in four years -- did you call her maudy?

A. I suppose I did.

Q. I will assume that you did. Now on the 6th you went home,

didn't you--Tuesday?

A. On the 6th?

Q. Tuesday. A. Yes, sir.

Q. Between one and two? A. Between one and two.

Q. You went up and told Maudy at the St. Francis that you had business at home and that you intended to go home--Maudy?

A. Yes, sir, if you wish to call her Maudy.

Q. No, pardon me, Mr. Semnacher.

A. I might have called her Maudy.

Q. You might have called me Franky? A. Yes, sir.

Q. Well, you went up and you told her you were going home-- you had business to attend to -- and she was indignant -- is that correct? A. I don't remember.

Q. Don't you know that the door between your room and their room in the Palace Hotel was continually open, day and night?

A. I do not.

THE COURT: Do you mean open or unlocked?

MR. [illegible]: Unlocked.

A. It could have been unlocked.

Q. But it wasn't open?

A. What do you mean?

Q. Was it opened at any time by you, or opened by them at any time?

A. It has been opened.

Q. It has been? A. Yes.

Q. By whom?

A. I don't know by whom. I didn't open it.

Q. Well, someone did? A. I suppose so.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] at the [illegible] Francis that you had busi-

[illegible] that you intend to go home--Handy?

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Yes, sir.

[illegible] you [illegible] were [illegible] home-- you

[illegible] to attend to -- [illegible] she was indignant -- is that

[illegible] A. I don't remember.

[illegible] you know that [illegible] between your room and their room

[illegible]

[illegible]

[illegible]

[illegible] Unlocked.

[illegible] It could have been unlocked.

[illegible]

[illegible]

[illegible] at any time by you, or [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] I [illegible] so.

Q. And when they were in the other room -- these two ladies--the door between your room and their room had been opened?

A. Will you repeat that question please?

(Last question read by the reporter)

A. Might have been.

THE COURT: I might say this witness is just as fair to one side as to the other. It is as hard for one side to extract any testimony from him as it was for the other side.

MR GOLDEN: Circumstances, however, are a trifle different.

MR DOMINGUEZ: Well, if your Honor please, that certainly is a compliment to counsel in this case., when Judge Golden can not do a thing and I can not do it; it places me on a par with him, and I certainly appreciate that.

Q. How much money did you have when you left Los Angeles city, when you left on this trip, you with these two young ladies?

A. I don't remember.

Q. How much money did you have with you when you left the St. Francis Hotel to return southward?

A. I couldn't tell you.

Q. Was it because of the vast amount that you had, or was it because of the small amount that you had?

A. I couldn't tell.

Q. Did either one of these parties, during the day or night while you were there, come into your room, or did you go into their room?

A. I did the next morning when we departed for breakfast -- when we went downstairs for breakfast.

Q. You went into their room? A. Yes, sir.

Q. The next morning? A. The next morning

Q. You registered at the Palace Hotel on September 4th, about what time? A. Between 11 and 11:30.

Q. Eleven and 11:30 in the morning? A. Yes, sir.

Q. Now then your testimony is that until the next morning when you went down to breakfast about 11 o'clock -- is that it?

A. About eleven o'clock.

Q. You did not go into their room, and neither one of them came into your room, is that true?

A. They might have.

Q. When you took those clothes out of room 122? the day that you left for Los Angeles, did you have a conversation with Mrs. Belmont as to those clothes? A. No, sir.

Q. Now you went in, of course, to escort the ladies down to the--

A. Yes.

Q. That night -- the next afternoon?

A. What date?

Q. Well that is September 4th-- that is the day you arrived -- I am talking about the Palace now? A. Yes, sir.

Q. I had been talking of the St. Francis just a moment before. You knew that didn't you? A. Yes, sir.

Q. And of course I want you to follow me. At no time did you go into their room nor did they come into your room, Mr. Bonsacher, between the time that you registered at that hotel, until the following morning -- you as an act of amenity and politeness went in their room to take them downstairs, is that true?

A. That is my recollection.

Q. Will you won't say that to be a positive fact would you?

A. I would.

Q. Who opened the door in the morning when you went into their room to take them downstairs?

A. I don't know.

Q. Neither Miss Hoppe nor Mrs Belmont?

A. I don't know.

Q. You don't know what?

A. The question you just asked me.

Q. I haven't asked you any question.

A. Yes, you said neither Mrs. Belmont nor Miss Hoppe,--what?

Q. What? A. Regarding the opening of the door to that room.

Q. When? A. A moment ago.

Q. I mean by when, the time elapsing between the time that you registered and the following morning when you went into their room?

A. I didn't get that question.

Q. Elapsing -- passing? A. I know what it means.

(Last question read by the reporter)

A. I don't know what time that door was opened.

Q. Have you any independent recollection that that door was open at any time at all except on the occasion to which you refer, on the morning of the 5th when you went in there to take them down to breakfast?

A. It could have been.

Q. All right. I understood you to say that you took down those

garments in order to joke Miss [redacted] because of her intoxication--

A. Yes, Sir.

Q. And the further reason that you wanted to clean your car?

A. After they would be discarded.

Q. Sir? A. After they would be discarded.

Q. Please listen to all my questions won't you. The night before you left, in direct examination you did not state-- during the examination of Judge Dolman you first stated that you went direct to your car and started southward. Afterwards you told him that you had gone upstairs and gotten those clothes,

A. That I had started southward when?

Q. You left between one and two didn't you, on the 6th?

A. On the 6th.

Q. You went up there before you left for home? A. Yes.

Q. I understood you to say at one time in your testimony that you just started out and did not recall do anything -- but you had the clothes.

A. I placed my clothes in my car approximately 7 o'clock Monday, September 5th.

Q. You got those clothes up there in room 1227 didn't you?

A. 1227 -- my clothes were placed by the bellboy at the Palace Hotel in the same -- in the grip containing the clothes of Miss Rapue and Mrs. Dalmont.

Q. Well of course all during this time Mr. Lonnacher, you naturally had thought of many things, and a man's memory is of such a nature that he can not remember every word and every detail.

A Absolutely not.

Q. And a man, in telling the truth, he searches his memory for what he thinks to be the fact? A. Yes, sir.

Q. And sometimes a man can be honestly mistaken?

A. Absolutely.

Q. And when you made the statement, might you, that you had been told about a certain piece of ice -- you may have been mistaken as to the exact language, isn't that true, Mr. Commagher?

A. As to the exact language I could be mistaken, just the same as I could be mistaken about time.

Q. Yes, sir; I appreciate that. In other words a man, especially in your position might have been mistaken in using the word "in" or the word "on" or the word "out" or "if". Isn't that true?

A. Yes, sir.

Q. So that when you say a man or any person told you that you made the statement of the word "in" as against theword "on" there is a possibility of an error; isn't that true Mr. Commagher?

A. There always is.

Q. And there may be in your case. Isn't that true?

A. Yes, sir.

Q. So that when you say that Mr. Arbuckle said, on the following day in a sort of a jocular way, as you expressed it, that the word "in" had been used as against the word "on" it may have been the word "on"; isn't that true?

A. It could be.

Q. Now we are going back now to the valise, and I want you to remember just what you testified to now, because we will get to that eventually -- Of course at the valise Sept. you were there

as a guest the same as I am now -- bless the Lord for that -- they didn't want to receive me at one time, but finally they did -- but you spent your time around there the same as any ordinary guest would; isn't that true?

A. I was there very little -- only to sleep, practically.

Q. Now then, I have asked you a half a dozen different things, you understand, and, Mr. Remember, I am going to get back to each one of them after a while -- now whenever that telephone message came, on September 4th, about 11 o'clock, you were having your breakfast?

A. September 5th.

Q. September 5th, sorry; whenever I am in error, correct me -- because my memory is probably more fallible than yours. You got the information then that Mr. Fishback had phoned; isn't that true?

A. From Miss Rappe.

Q. You got the information that Mr. Fishback had phoned; isn't that true? A. It is.

Q. He is the only gentleman that you knew, of that party; isn't that true? A. Positively.

Q. You had never had any acquaintance with Mr. Arbuckle had you, except on the screen?

A I have known him for seven years.

Q. Not an intimate acquaintance?

A. Not intimately, no, sir.

Q. You had seen him--talked to him? A. Yes, sir.

Q. Shaken hands with Fatty,-- that is all-- isn't that true?

A. Yes, sir.

Q. Well, in all that time I think you found him a pretty good fellow didn't you? A. You bet you

Q. So that when Mr Fishback reported that -- rather--you got the report that Fishback wanted to see somebody - you knew that a friend wanted to see your friend, isn't that true?

A. Yes, sir.

Q. You knew Fishback well didn't you?

A. I have known him about six years.

Q. But you knew him more intimately than you did Mr. Arbuckle?

A. No, sir.

Q. Haven't you been to Fred's home? A. Never.

Q. Well at no time did Mr. Arbuckle ever invite you or any of your party -- mind you -- with your knowledge, to his apartments, did he?

A. Positively not.

Q. I meant Mr. Arbuckle? A. Yes.

Q. I want to get that straight. At no time while you were in the city of San Francisco on that original trip, did Mr. Arbuckle ever invite you or either of your party to his apartments, within your knowledge? A. That is correct.

Q. And at no time did Mr. Arbuckle, within your knowledge, ever invite any other person who was present in those apartments at any time - mind you - while you were there?

A. Positively not.

Q. So that all these people who went there, so far as you know, were either the guests of Mr. Fishback or self-invited?

A. Self-invited -- well, I take issue with you there. I was not self-invited.

Q. Fishback invited you? A. Yes, sir.

THE COURT: That is covered by the other part of the question.

MR DOMINGUEZ: Q You were one of the invited guests, and Mr. Fishback invited you. But Mr. Arbuckle didn't invite you there did he?

A. No, sir.

Q. I want to get it straight. I want to know if, within your knowledge any person that was there at any time in those rooms while you were there was ever invited - mind you - by Mr. Arbuckle?

A. No, sir.

Q. By the way -- this is getting off on to neither one position. You have seen purses in your day, haven't you?

A. Yes, sir.

Q. You have seen silver mesh purses?

A. Yes, sir.

Q. Gold mesh purses? A. Yes, sir.

Q. And you have seen women carry them so nicely and gracefully haven't you? A. Yes, sir.

Q. And you saw Miss Zeppa leave Los Angeles with a gold mesh purse didn't you? A. Absolutely. And I have been wondering where it is.

Q. Sir? A. I have been wondering where it is.

Q. So have I So have I. We will just leave that.

MR GOLDEN: Where is it?

MR DOMINGUEZ: In my pocket.

THE COURT: He is a good lawyer.

THE WITNESS: And a pair of beaus, too.

Q. A pair of beads?

A. A string of beads.

Q. Well of course you didn't take the string of beads home did you?

A. No. I guess you got it.

Q. Sir? A. No, sir.

Q. And you didn't take that gold mesh purse, studded with different jewels, did you? A. No, sir.

Q. And you took her clothes down didn't you?

A. No, I did not take her clothes down.

Q. Mr. Clerk, I would like to have those clothes now.

THE STENOG: What do you mean by clothes--all of her clothes?

Q. I am going to show them to you, Mr. Hemmasher. When you came up there to the room now, on the first day you telephoned up, didn't you? A. Yes, sir.

Q. You asked for Fishbeck, didn't you?

A. No, I asked for Miss Monroe.

Q. Fishbeck answered the phone? A. Yes, sir.

Q. Fishbeck says, "Come up"? A Yes.

Q. So you met a gentleman from Los Angeles, and after you got through with him, you went up? A. Yes, sir.

Q. That was Mr. Fortlouis you met there, wasn't it?

A. Yes, sir.

Q. Fortlouis is not a gentleman -- mind you -- who represents, within your knowledge, a company back in New York that designs clothes -- makes fine gowns -- places those gowns on models and then they exhibit them; isn't that true?

A. Yes, sir.

Q. Then you went into the elevator and you went into the rooms?

A. Yes, sir.

Q. This was September 5th? A. Yes, sir.

Q. About-- A. Two o'clock.

Q. Wasn't it?

A. Yes, I should judge about two o'clock.

Q. Now you went into 1220 didn't you?

A. No, went into that room?

Q. Yes? A. No.

Q. Didn't you go into 1220?

A. Oh, I thought you meant the hour 12:20.

Q. Room 1220 you went in there, didn't you?

A. Yes; I thought you meant the hour.

Q. Did you ever make the inquiry, knowing that that jeweled purse - mind you - had been in Miss Hayne's possession, and should have been in her possession -- mind you -- at the time that you left for Los Angeles, did you ever make inquiry as to where that purse was?

A. Yes, sir.

Q. Of whom?

A. Mr. Arbuckle, the following morning.

Q. What led you to believe that Mr. Arbuckle could know, or did know of the fact that she had a jeweled purse in her possession.

A. She didn't have a jeweled purse in her possession; it wasn't a jeweled purse; it was a plain gold piece -- and Miss Hayne -- the morning of the 6th, asked me where her purse was -- and when I entered 1220 naturally I went to Mr. Arbuckle and asked him if

he had seen it and he said yes, "It is in the desk over there" -- and got it for me.

Q. Got it for you? A. Yes, sir.

Q. What did you do with it?

A. I gave it to Miss Rappe.

Q. When? A. That same morning.

Q. What day A. The 6th.

Q. What hour? A. I can not tell you the exact hour-- between ten and twelve.

Q. She was present w en you gave it to her?

A. Mrs. Belmont.

Q. Miss Rappe was very ill then, wasn't she?

A. Yes, sir.

Q. Why was it you gave it to her knowing she was very ill?

A. Because she had asked me for it.

Q. Who was present when you gave her that purse?

A. Mrs. Belmont.

Q. Now we are going now into 1222 -- you are an invited guest -- you come in -- who opens the door?

A. That I don't know; I don't think anyone. I believe they said, "Enter".

Q. You had some conversations with Mrs. Delmont alone, didn't you, Mr. Semnacher, in a room with Miss Rappe, didn't you?

A. No.

Q. Didn't you testify on cross examination --

A. I was there a half a dozen times -- maybe ten.

Q. Assuming that you were there six times, you and Mrs. Belmont were there alone, isn't that true?

A. No, sir.

Q. Who else was there? A. Miss Rappe.

Q. Miss Rappe was ill, wasn't she?

A. In room 1227.

Q. In a comatose condition wasn't she?

A. When she was in that condition I immediately left the room.

Q. You did talk to Mrs. Belmont in there several times didn't you?

A. Certainly I spoke to her every time.

Q. And you were in there a few minutes each time weren't you?

A. Yes, sir.

Q. When you went in at 1220 -- just leave that for a minute -- when you went in to 1220 you naturally saw a --

A. (Interrupting) a number of tables with food.

Q. And in that room you saw, as Judge Fallon suggested, or rather you told him -- you saw Mr. Fishbeck -- you saw Mrs. Fortlouis--you saw Mr. Sherman, you saw Mr. Arbuckle, you saw Miss Prevost, you saw Mrs. Belmont and you saw Mrs. Campbell; is that true?

A. No, sir.

Q. Or Miss Blake. A. Miss Blake.

Q. By the way, she works at Bait's don't she?

A. She did at that time, I presume, because I took her there that day.

Q. And you want to say now under your word as a gentleman, Mr. Sommacher, and I believe you are doing the best you know to tell the truth, that you never discussed this case with any San Francisco

attorney before you left for Los Angeles?

A. Positively not.

Q. Were you in the presence of Miss Blake or anybody else in any discussion that any one of who was there in that room had, with any San Francisco attorney, before you left for Los Angeles?

A. No, sir, positively not.

Q. Now as you went in you saw these ladies and gentlemen?

A. Yes, sir.

Q. You saw Mr. Arbuckle dressed in pajamas and a robe?

A. Yes, sir.

Q. And sitting at a table? - A. And slippers.

Q. And eating? A. Eating. May I interrupt a moment Mr. Fleming. You didn't get the names of all the people that were there.

THE COURT: Is it necessary to go over all the names again. I think it has been recorded several times.

A. No. I never't say--but you overlooked some--that is the idea. It is immaterial to me.

MR DEMINGUEZ: It is not immaterial to me. I want the names of the people who were there -- with the exception--I want all the persons who were there.

THE COURT: Do you mean the very first time he came into the room -- Room 1220?

MR DEMINGUEZ: Yes.

THE COURT: All right.

A Mr. Arbuckle, Sherman, Fortlouis, Fishback, myself, Miss Blake,

Miss Mayer, Miss Prevost, Mrs. Belmont and one or two other ladies.

MR. [illegible]: I think you mentioned a Mrs. Daube before?

A. Yes, Mrs. Daube; she wasn't in that room, though.

Q. Not the first time you went in?

A. Not the first time.

MR. [illegible]: And of course you passed the pleasantries of the day and sat down there like an ordinary gentleman would?

A. Yes, sir.

Q. You were received cordially, shook hands, and so forth?

A. Yes, sir.

Q. No one [illegible] to misconduct?

A. Absolutely none.

Q. At that time how were the ladies robed -- anyone robed anything than in the ordinary way?

A. They were all in their street attire, with the exception of Mrs. Belmont.

Q. How was Mrs. Belmont robed when you went in there?

A. Dressed in yellow pajamas.

Q. With reference to her sobriety, when you went in there, Mr. Sommacher, -- of course you have seen drunken men and drunken women? A. Yes, sir.

Q. So from your experience I want you to tell us - mind you - what was her condition as to sobriety -- would you say she was sober?

A. Lit up.

Q. Lit up. That depends upon the height of the church tower.

A. Well, you know what the expression is.

Q. I know. You bet I know. Well now, brother Sommacher, that is

the use of discussing that. You know she was drunk don't you?

A. Well, she wasn't falling down.

Q. I know-- A. She was happy.

Q. What? A. She was happy.

Q. Now listen, Mr. Sommacher -- being truthful and candid, Mr. Sommacher-- we have all been there, see? Now, as a matter of fact she was just damn drunk, wasn't she?

A. Not quite -- somewhat.

Q. But by the time you left she was drunk, wasn't she?

A. Well I don't know before that -- I wasn't paying any particular attention to anyone.

Q. The fact that the only raiment that she had on, mind you, consisted of yellow garments - yellow pajamas - don't appeal to your mind that a lady, -- a lady, mind you, would not do that except she were under the influence of liquor, did it?

A. Well, everyone who -- has his own ideas of a lady.

Q. You remained there about thirty minutes?

A. Yes, it could have been longer.

Q You don't drink, by the way, do you?

A. No, sir.

Q. And you were there watching the performance with clear brain and all that, weren't you?

A. Yes, sir.

Q. So that you could size up the entire panorama.

A. But I wanted to get away.

Q When--when you got the clothes and the other things up there?

A. No -- long before--when I got there. I wanted to go to Del Monte.

Q. Sir? A. I wanted to get to Del Monte that evening.

Q. Del Monte down here -- Monte Cruz?

A. Yes, sir.

Q. Now while you were there you didn't see Mr. Arbuckle go into any room with any lady did you?

A. No. While I was there that time he was sitting at the table eating.

Q. When you went into the room and found Miss Rappe on that bed, as you say, moaning, and saying "I am sick", Mr. Arbuckle was in room 1220 with you gentlemen wasn't he?

A. But when she was saying that -- he was in room 1219. He entered 1219 when the rest of us entered.

Q. Wait a minute. You did not get my question.

A. I want to get it clear, too.

Q. At the time you went in and the ladies went in -- just immediately prior to that, simultaneous with the act of your going in, the fact of the matter is that Mr. Arbuckel was right there in room 1220, wasn't he -- and he entered with you?

A. I don't know if he preceded me or not.

Q. No, that isn't the point -- pardon me. I am still --

A. Would you permit me to explain it, Mr. Dominguez?

Q. Certainly.

A. After these two ladies came out and stated that the girl was very sick we all entered simultaneously -- through the door,

as quick as we could.

Q. By "we" you mean Mr Arbuckle went in with you, don't you?

A. Yes, sir.

Q. By the way, Mr Schumacher--you stated yesterday in your cross examination, that these ladies came out of room 1219. Do you still insist that is a fact?

A. Yes, sir, that is right, - that is my recollection of the incident.

Q. Wait a minute--with his Honor's permission, just a moment.

THE WITNESS: You mean Saturday?

Q. Yes, sir-- pardon me. Did you ever see Miss Rappe, while in those apartments, alone with Mr. Arbuckle?

A. No, sir. You mean 1219?

Q. Or 1220? A. Never.

Q. Let us not have any misunderstanding. My understanding of your testimony is that the two ladies to whom you referred came out of room 1219 and made the statement that Miss Rappe was very ill in that room; is that correct?

A. Yes, sir, that is my recollection of the incident.

Q. Now then, of course your memory, when you testified before the coroner, was quite as good as it is today; isn't that a fact?

A. It might be. The human mind is very funny.

Q. Sir? A. The human mind is very funny.

Q. And some minds are funnier than others?

A. You bet you.

Q. Reading now at page 147, and I should show it to you, but I can not go around there, -- but with the gentleman's permission

[illegible]

[illegible]

[illegible]

[illegible] Yes, [illegible]

[illegible] Yes, [illegible] Yes, [illegible] yesterday in your cross [illegible] of room 1210. Do you still [illegible] fact?

[illegible] that is right, - that is my recollection of the [illegible]

[illegible] with his [illegible] for [illegible], just a moment.

[illegible] You mean Saturday?

[illegible] - [illegible] you ever see [illegible], while in [illegible]

[illegible] You mean 1210?

[illegible] 1220? A. Never.

[illegible] as not have any misunderstanding. My understanding of your [illegible] is that the two ladies to whom you referred [illegible] at [illegible]

[illegible] Yes; is that correct?

[illegible] Yes, [illegible], that is my recollection of the incident.

[illegible] of course your memory, when you testified before the [illegible] as good as it is today; isn't that a fact?

[illegible] be. The human mind is very funny.

[illegible] The human mind is very funny.

[illegible] more funnier than others?

[illegible]

[illegible] when is we you, out ?

[illegible]

I will read it.

A. All right sir.

Q. In order to refresh your recollection: "Q. Yes. When did you next see Miss Harper? A. About ten minutes later. Q. Where? "A. In room 1219. Q. And under what circumstances? A. As I stated before two of the ladies went to the bathroom. In a few moments they came out and said Miss Harper -- this girl-- 'is very sick. Somebody had better attend to her.' So all entered the room. "Q. At this time Mr. Arbuckle was not in-- A (Interrupting) He was in the same room that the rest of us was. Q. Do you know what ladies entered the bathroom? A. Sir? Q. Do you know what two ladies entered the bathroom? A. No, I don't. I never gave it any attention. Q. Was Miss Delmont? A. No, I don't think it was Miss Delmont,--no, I don't think it was Miss Delmont; because Miss Delmont ~~was~~ I think was in -- in room 1220. Q. Well, two of the ladies. A. Two of the ladies went to the bathroom."

Now does that refresh your recollection now as to whether those two ladies were in room 1219 or in the bathroom?

A. They presumably went to the bathroom.

Q. Sir? A. They presumably went to the bath room.

Q. Well, did I misunderstand you then, when you say they came out of room 1219?

A. Yes; a bathroom attached to room 1219.

Q. There are two entrances? A. Yes, sir.

Q. And the entrance that leads into the bathroom is the exit that leads out of room 1220; is that true?

A. No, sir. Here is the exit that leads out of 1220. There is a separate door. (Pointing on diagram)

Q. So now then the understanding is that I have, that these ladies went into -- went into -- and this was--

A. 1219.

Q. 1219, Mr. Commasher. And then came out through the bathroom?

A. No.

THE COURT: You don't understand it, counsel.

MR DOMINGUES: Please let the witness.

THE WITNESS: Can I point to the chart, Mr. Dominguez?

MR DOMINGUES: Certainly.

THE WITNESS: Here is room 1220. Here is the entrance to room 1219. Here is the bathroom-- a door here presumably--here is the corridor entrance to room 1219. When they came out they came out into room 1220. They entered this way and came out the same way.

Q. Pardon me. Pardon me for my dullness. I know the court will. Now just prior to the moment that those young ladies came out and suggested what you say they had suggested, have you heard one single sound emanating from room 1219?

A. No, sir.

Q. Had you heard any screams?

A. None at all. I had only been there a few moments.

Q. Had you heard any screams? A. No, sir.

Q. Did you or anyone knock at the door? A. No.

Q. Did you see anyone sitting with the foot at that door?

A. Which door?

Q. 1219.

THE COURT: You mean the door connecting the two rooms?

MR DOMINGUEZ: Yes, sir.

A. No, sir.

Q. Did you see Mrs Belmont at that time, just before you went in, go there to the door of 1219, and kick with that plush shoe -- wait a minute --

A. I followed him--

Q. (Continuing) -- kick with that plush shoe as violently as she could -- and thereupon, you understand - open that door?

THE COURT: Before she went in the room?

MR DOMINGUEZ: Room 1219, your Honor.

THE COURT: Oh that is what you mean? I thought you meant before. Do you understand the question?

A. Yes, sir.

Q. Answer it then.

A. No, sir.

MR DOMINGUEZ: At any time that you were there, and immediately prior to the time that you went into 1219 subsequent, and almost simultaneous with these two young ladies telling you -- or telling all of the persons there that Miss Barrie was ill, did you hear or see anyone knock at that door either by striking with the shoe, or pounding on the door with the hand?

A. Positively not.

Q. Did you ever know Earl Lynn?

A. An actor?

Q. Sir?

A. An actor?

Q. Yes. A. I believe I met him twice. I would not know him if I saw him again.

Q. Did you know his father? A. No, sir.

Q. You never knew his father? A. Never knew him.

Q. Did you have any personal knowledge of the fact that Mrs. Belmont is acquainted with him personally?

A. None whatsoever.

Q. Have you any personal knowledge of the visit that Mrs. Belmont paid his father in the Haas Building in the city of Los Angeles at 6th and Spring, relative to the conduct of Earl Lynn toward her?

A. Never knew that she knew him, even.

Q. Have you any personal knowledge of any correspondence -- and I will produce it -- between the Belmont woman and Earl Lynn, where she claims, over her signature, that she was out in the family way by Earl Lynn? A. No, sir.

MR. [illegible]: Just a moment. I am going to move that that answer be stricken out first. We have permitted, as your honor knows, this examination to proceed without interruption. Now anything that has even the remotest connection with the case we do not object to. If reputations are to be assassinated, they need not be assassinated in the preliminary examination. Now the Belmont woman, as counsel terms her, is nothing to us. She is merely an incident in the case. This isn't the place to try the character of the Belmont woman. If counsel will indicate to us now what is clearly incompetent, irrelevant and immaterial questions that have nothing to do with the case, and if it will show any cause that

will throw light on the question of whether or no the defendant should be held to answer on a charge of murder--we will withdraw the objection.

MR DOMINGUEZ: All right. I will make the statement then. Well I will withdraw that question now.

MR [illegible]: Now listen. I am going to say to you, Mr. Dominguez -- we want the sunlight of truth upon the facts of this case-- but only upon the facts of the case.

MR DOMINGUEZ: You will have them.

THE COURT: (After discussion) As a magistrate I am not going to sit here and try the character of every witness who appears in this case. We have to limit ourselves to the facts in this particular charge and determine the merits of this prosecution without regard to digressions relative to the character, morality, or decency or previous connections of the various witnesses. Such an investigation would lead us into a course of digression that would result in an endless trial here.

MR DOMINGUEZ: (After discussion) Now Mr Commacher, we are going back to that room that you stayed for 45 or 50 minutes.

A. Which room?

Q. 1219. A. Yes, sir.

Q. You left and you went away and of course you are not conscious of anything that transpired while you were away.

A. Certainly not.

Q. But you did come back about 4:40--that is the way I figured it out--mathematically--according to your figures yesterday?

A. Yes, sir. You mean Saturday.

Q. And you were there when the two young ladies came out--you all rushed in and you found Miss Mayo? A. Correct.

Q. Now, Mr. Lemmacher, will you tell me the condition you found her, as far as nudeness is concerned, or clothing is concerned?

A. Absolutely nude.

Q. Are you sure about that, Mr. Lemmacher? A. Positive.

Q. You are sure that when you went in there she did not commence to tear off her clothes?

A. When I went in there she was nude.

Q. You are sure she did not commence to tear off her clothing?

A. No, sir.

Q. You are not so sure of that as the women carried her out?

A. I did not say the women carried her out. I don't know who carried her out of that room.

Q. Let me refresh your recollection. Don't you recollect that Judge Golden kept pursuing that inquiry and asked many questions which were relevant and pertinent as to who took her out, and you said all the men walked out into 1220?

A. You mean took her into the bathroom. I thought you meant out of 1220 into 1227.

Q. Pardon me--you will not say under your oath that that woman-- the ladies of the party carried her out from 1219 to the bathroom?

A. That is my positive recollection.

Q. And that all the gentlemen who were there, immediately on the ladies taking her out, retired to 1220?

THE COURT: No, his testimony was he left before the ladies took her out.

A. We left room 1220 when the ladies started to take her into the bathroom.

THE COURT: My recollection was that they could see through the open doors these two ladies bring the patient--the deceased--into the bathroom and afterwards saw them bring her out of the bathroom.

A. And lay her on the bed.

MR. MONTAGUE: The only point is that the ladies, and no gentleman helped to carry her out?

A. Nobody was in the bathroom but the ladies and Miss Rappe.

Q. Don't you know, as a matter of fact, Mr. Semnacher, that Mr. Fishback is the gentleman who carried her - mind you - with the aid of one or two of the ladies, to that bathroom?

A. No, I do not.

Q. You don't know' was Fishback in 1220 with you at the time she was being carried out?

A. That is my recollection.

Q. Well, as a matter of fact all these things were occurring so quickly and rapidly --

A. I never paid any attention to them.

Q. Now as I said to you a few moments ago, a man can say absolutely about one word or another in the course of a conversation -- so when you say that Mr. Arbuckle made a certain statement to you you may be mistaken as to his exact language; isn't that true?

A. Yes.

Q. And instead of saying the word "in" he may have said the word "on"? A. Positively.

Q. Now, Mr. Semnacher, I understood you yesterday to declare that

this was the hat that the deceased wore?

A. Yes, sir.

Q. You took it home didn't you? A. I did not.

Q. These garters? A. Never had them.

Q. Did you have this--I don't know what you call that, that do you call that? A. Jacket, I presume.

Q. Did you take this jacket home with you?

A. I did not.

THE COURT: I think you are wasting time going over all these.

MR GOLDEN: He only took two, Mr. Dominguez.

MR DOMINGUEZ: (After discussion) Q. These were the pantalets, are they?

A. Yes.

Q. Now you want the court to believe you took those pantalets down more for the purpose of cleaning your car?

A. Why not?

Q. Do you--is that your assertion?

A. I am not telling them what to believe.

Q. But you do state that you took those pantalets down there to clean your car?

A. After I showed them to Miss Mapes--yes.

Q. And you want the world to believe that you took this brown jacket - mind you - made of thin silk, to wipe your car?

A. For the same purpose.

Q. What kind of a car have you got? A. Stutz.

Q. An ordinary Stutz - six cylinder, or what?

A. Four.

Q. Then you had no other purpose in the world for taking these two thin garments -- they are thin, aren't they?

A. I suppose they are. I am not a judge of silk.

Q. Two silken garments to clean your car.

A. After I had shown them to Miss Hope.

Q. You put them in your bureau drawer in Los Angeles?

A. With my other articles I had removed from my car when I got to my home.

Q. I am speaking now of things that belonged to Miss Hope?

A. Yes, sir.

Q. And you did not tell anyone in the world until you were ordered so to do, that you had those in your bureau in Los Angeles, did you? A. That is it. Mrs. Delmas knew, and I presume four or five people in Los Angeles knew -- no, two people.

Q. Mrs Delmas knew, didn't she? A. Absolutely.

Q. She gave them to you? A. She gave them to me--she did not.

Q. Let us see about that. You went upstairs. You were going to go home. You wanted your garments to clean your car.

A. That wasn't the purpose whatsoever. Later Miss Hope--I can just see what Miss Hope would have done. She would have laughed at her intoxicated condition-- Well, tear them up immediately again-- and I was going to clean my car with them.

Q. That was your purpose, to clean your car?

A. That was the ultimate purpose, to clean my car, instead of throwing them away.

Q. ow you took some jewelry down there with you?

A. A pair of cuff links I had in my pocket.

Q. What were you going to do with those?

A. Those were for Miss Mapes.

Q. You were going to give your car with them?

A. No, sir.

Q. Or to show them to her to look her with them? A. No, sir.

Q. What else did you take down?

A. That twenty five cent bracelet that I had picked out of the basket --

Q. Now these jewels or pieces of jewelry -- did you intend to show her those as well -- mind you -- in order to show her how drunk she had been? A. Not at all.

Q. You knew she was going to return home, didn't you?

A. Certainly. I intended taking her home.

Q. Here is a shirtwaist? A. Yes, sir.

Q. Did you intend to bring that back so she could use them?

A. No, I never gave that a thought. I intended returning Saturday the 10th for Miss Mapes and Mrs. Belmont.

Q. Did you know how much money Miss Mapes had when you left the city? A. Not at all.

Q. Do you know how much money Mrs. Belmont had when you left the city? A. No, sir.

Q. Did you make any effort at all to see they had any money with which to pay their bills?

A. I told them it would be all right on the 10th.

Q. Did you leave any of your own money?

A. No, sir.

MR [illegible]: That is all. Thank you, gentlemen.

MR [illegible]: Now, Mr Semmesher--By the way, Mr. Dominguez, all these questions you asked Mr. Semmesher to say you forgot to ask him last Saturday.

Mr. Semmesher, when you came up just before you testified here as a witness last week, you were not across in Oakland by an officer of the law?

A. On the ferry boat.

Q. And between the time you got into Oakland and subsequently into San Francisco, and the time that you testified, so to speak, you have been under the careful observation of an officer of the law? A. Positively.

Q. And this surveillance ceased at about half past twelve last Saturday afternoon - right?

A. Well I think Saturday night six o'clock or five o'clock Mr. Kennedy was with me quite some time in the afternoon.

Q. How long was Mr. Kennedy with you?

A. I don't know exactly.

Q. Well how long in the afternoon -- at any rate, you have not been under surveillance or observation by any officer from some time late Saturday afternoon, or all day yesterday?

A. Not to my knowledge.

Q. Now will you please tell us again what it was that Mr. Arbuckle said relative to the subject matter of law, in your presence?

THE COURT: I am not going to permit that again. There is a limit to an examination, after it has been rehearsed several times. There is no necessity for taking up our time by repetition.

MR GOLDEN: Q. Now you told the district attorney at Los Angeles what Mr. Arbuckle had said -- you told him that Mr. Arbuckle said he put the ice into her vagina; is that what you told him?

A. Words to that effect.

Q. I am not asking you for the exact words; that is the substance of it? A. Yes, sir.

Q. You didn't tell the district attorney at Los Angeles, that Mr. Arbuckle had put ice on her vagina, did you?

A. No, sir.

Q. Now you did say that Mr. Arbuckle said that he put it in her vagina? A. That is my interpretaion of his language.

Q. When you say your interpretation -- that is the way you heard it, isn't that so? A. Yes, sir.

MR GOLDEN: That is all. Take the witness.

MR DOMINGUEZ: Q. Since the moment that you were released from the surveillance have you been in the slightest way connected, directly or indirectly, with anybody connected with the defense of this case?

A. Positively not.

Q. Have you talked to a human being one way or the other as to what your testimony was going to be here today, connected with the defense of this case? A. No, sir.

MR DOMINGUEZ: That is all.

(Further proceedings continued until tomorrow, Tuesday, September 27th, 1921, at 10:30 o'clock A.M.)

IN THE POLICE COURT OF THE CITY AND COUNTY OF SAN FRANCISCO,
STATE OF CALIFORNIA, DEPARTMENT NO. 2.
Honorable Sylvain J. Lazarus, Judge.

THE PEOPLE OF THE STATE OF CALIFORNIA)
)
vs.) MURDER
)
ROSCOE ARBUCKLE)

TUESDAY, SEPTEMBER 27TH, 1921
10:30 A. M.

ZAY PROVIST,

Called as a witness on behalf of the People, sworn:

MR U'NEIL: Q Your name is Zay Provost?

A. Yes, sir.

Q. Where do you live, Miss Provost?

A. 530 Schrader Street.

Q. San Francisco? A. Yes, sir.

Q. Were you in room 1220, 1221 and 1219 of the St. Francis Hotel on September 5th of 1921? A. Yes, sir.

Q. What time did you arrive there?

A. Between one and 1:30 -- about 1:30.

Q. And when you arrived there, which room did you enter?

A. Room 1220.

Q. And who was in that room when you went in?

A. There was Mr. Arbuckle, Miss [illegible], Mrs. Delmont, Miss Alice

"Yes, sir."

"Have you in room 1103, just end of the U. Pennsylvania Hotel?

"Yes, sir."

"Don't interrupt [illegible]

"Yes, sir."

"Are you [illegible]

"Yes, sir."

"Yes, sir."

"Yes, sir."

Blake and Mr. Semnacher -- Mr Sherman.

Q. Was there anyone else in there whose name y u didn't know?

A That was all at that time.

Q. Now how was Mr. Arbuckle dressed when you entered the room?

A. He had on pajamas and a bathrobe and slippers.

Q. And how was Mr. Sherman dressed? A. Just the same.

Q. As Mr. Arbuckle? A. Yes, sir.

Q. And how were the rest of the party dressed?

A. They were all in their street clothes.

Q. And what were these people whose names you have just mentioned doing when you entered the room, Miss Provost?

A. They were all sitting round the table eating.

Q. Did you see any drinking going on there?

A. A little bit.

Q. Where was Mr. Arbuckle sitting if you remember -- or standing -- whatever he was doing -- when you entered?

A. He was sitting on a chair alongside of the wall.

Q. And what was Miss Rappe doing, if you remember?

A. She was sitting on a settee alongside of--

Q. How far from Mr. Arbuckle?

A. Alongside of Mr. Arbuckle.

Q. And what were they doing? A. They were eating.

Q. How far from Mr. Arbuckle was Miss Rappe sitting?

A. Mr. Arbuckle was sitting here, and Miss Rappe was sitting here alongside of him on a settee.

Q. Did anybody else later join the party?

A. Well, Mr. Fishback came up, but he went out again--just stayed

a few minutes and went out again -- several people came up in the room -- kept coming and going all the time.

Q. Did you see Mr. Arbuckle and Miss Rappe leave the room at any time?

MR DOMINGUEZ: I should suggest, if your Honor pleases, that it would be best for the young lady to simply say what happened, and detail the occurrences and the events that transpired on that day. I think that would be a little fairer.

MR U'REN: We will ask the direct question, if your Honor please.

THE COURT: I will overrule the objection if it is intended as one. It is not made in the form of an objection.

MR DOMINGUEZ: No, just a suggestion.

THE COURT: It is pretty hard to get testimony without a little leading.

(Last question read by the reporter)

A. I don't understand that question.

THE COURT: Repeat it again to the witness. It is a very plain question -- couched in simple language.

MR U'REN: Q. Did you see Miss Rappe leave room 1220 at any time?

A. Yes, sir.

Q. When was that?

A. I don't know the time; I didn't pay any attention to the time.

Q. Well approximately how long after you had entered the room, - generally speaking?

A. About I don't know-- about an hour or so, I guess. I don't know the exact time.

Q. Did you see her leave 1220 and enter 1219?

A. Yes, sir.

Q. And did you notice Mr. Arbuckle at that time?

A. Yes, sir.

Q. What did he do?

A. He went in after Miss Rappe and closed the door.

Q. Went in the room after Miss Rappe? A. In room 1219.

Q And how soon after Miss Rappe did he go in?

A. Right after she went in.

Q. And did you see--what was that - did she say he closed the door?

A. Yes, sir.

(Preceding question and answer read by the reporter)

MR U'REN: Q How long did they remain in that room together, approximately?

MR DOMINGUEZ: Just a moment; that is assuming something not in evidence.

MR U'REN: Q Did you see them come out of that room together?

A. Yes, sir -- not together.

Q. Who came out of the room first -- out of 1219?

A. Mr. Arbuckle.

Q. Now how long elapsed between the time that you saw Mr. Arbuckle and Miss Rappe go in as you have described, elapsed -- before Mr. Arbuckle came out of the room?

A. I didn't take any time. It must have been about three quarters of an hour -- about.

Q. You mean "I didn't take any time"?

A. I didn't take any time. I didn't notice the time.

Q. What were the circumstances of Mr. Arbuckle's coming out of that

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] went in after Miss Rance and closed the door.

[illegible] in the room after Miss Rance? A. In room 1219.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

A. Yes, sir -- not together.

[illegible]

A. [illegible]

[illegible]

Arbuckle came out of the room?

[illegible]

of an hour -- about.

[illegible]

A. I didn't take any time. I didn't notice the time.

[illegible]

room. Just relate them fully to the court, please?

A. He was fooling with his bathrobe, kind of tying -- fumbling with his robe.

Q. Before he came out, relate the circumstances, what happened before he came out.

A. Mrs. Delmont and I were in the room together alone, room 1220--

Q. Go on, Miss Provost.

A. I went over and used the phone, and Mrs. Delmont was standing at the table drinking. We sat in there and talked quite a little bit, and I said--

MR COHEN: Just a minute; as to what she said is incompetent, irrelevant and immaterial and hearsay.

MR U'REN: Q Just omit what you said and tell what you did.

A. She went over and rapped at the door, and I went over and rapped a couple of times, and she kicked on the door several times, and Mr. Arbuckle opened the door.

Q. Which door did she rap on and kick on? A. 1219.

Q. And when Mr. Arbuckle opened the door, did you notice his appearance? A. Yes, sir.

Q. Did Mrs. Delmont or you say anything or call out while she was rapping and kicking on the door?

MR DOMINGUEZ: Just a moment; that is objected to on the ground it is leading and suggestive;

THE COURT: Objection overruled. I don't see how the question could be asked in any other form.

(Last question read by the reporter)

MR COHEN: The further objection, it is not binding on the

defendant. It is outside of the defendant's presence and not part of the res gestae, if the court please, and in no way could be binding upon this defendant. This defendant wasn't there and he certainly was not bound by the remarks of any third person in there.

MR GOLDEN: Our contention is he heard it on the other side, and in response, opened the door.

THE COURT: We can come to the conclusion if any sounds, made to attract the attention of the defendant or anybody else -- She has already testified that she, the witness, rapped on the door and that the other lady kicked on the door. If any other sounds were made I think they would be perfectly pertinent.

THE WITNESS: Mrs. Delmont said, "Open the door; I just want to talk to Virginia. Open the door; I just want to speak to her."

MR O'NEIL: Q. Was that in a low tone of voice or in a loud tone of voice?

A. Loud.

Q. And how soon after she called out in that manner did Arbuckle open the door? A. Just a few minutes after then.

Q. Now when Arbuckle opened the door, please describe to the Court what his appearance was -- how was he dressed -- what was he doing?

A. He had on his bathrobe and he was fumbling with his bathrobe -- with the strings.

Q. Go on.

A. He then came out into Room 1220. I followed Mrs. Delmont right into the room.

Q. Did you notice anything else about his appearance?

A. Not until I came back and he took off his bathrobe -- His pajamas were all wet in the back.

Q. When did you notice that his pajamas were wet in the back?

A. When he took off his bathrobe.

Q. That wasn't immediately when he opened the door I understand?

A. That was a few minutes after.

Q. All right. Let us proceed. When he opened the door, did I understand you to say that Arbuckle stepped out into room 1220?

A. Yes, sir.

Q. Then what did you and Mrs. Delmont do, if anything?

A. Went right into room 1219.

Q. Did you see Miss Rappe in the room?

A. She was lying on the bed.

Q. What bed? A. The one nearest the door.

Q. Will you look at that diagram, Miss Prevost -- This was drawn to represent the room. It is room 1221, 1220 and 1219. This is the entrance door between 1219 and 1220 -- When you say that you and Mrs. Delmont kicked and rapped at the door, do you mean this door (pointing)? A. Yes, sir.

Q. And then when you entered you entered this door (pointing)?

A. Yes, sir.

Q. Now which one of these beds did you see Miss Rappe on?

A. That one.

Q. This one. You mean the double bed--the double bed up in the corner? A. Nearest the door.

Q. And by nearest the door you mean the entrance from the hall into room 1219? A. Yes, sir.

Q. Just before we get to that. Do you remember the condition of the bed upon which Miss Mayo was lying, as to being wet or dry?

A. It was wet.

Q. And which portion of it was the wettest?

A. I never noticed which was the wettest, but it was all wet -- even the pillow was wet.

Q. When you and Mrs. Le Mont took Miss Mayo's clothes off, did you take her drawers off?

A. I don't remember taking her drawers off.

Q. Were the clothes, when you took them off, wet or dry?

A. They were dry.

MR DOMINGUEZ: You said Miss Mayo.

MR U'REN: Q. Her clothes were dry?

A. Yes, sir.

Q. And then Miss Blake came into the room. Then what happened?

A. Then Miss Blake and I moved her from one bed to another.

Q. Which bed did you move her from, the double bed to the single bed? A. Yes, sir.

Q. And then what happened?

A. She started to yell and moan again.

Q. What, if anything, did she say?

A. She said "I am dying, I am dying. He hurt me."

Q. And who was in the room when Miss Mayo said that?

A. Alice and I.

Q. Anybody else that you remember?

A. I don't remember whether there was anybody else in the room or not at that time, because we were trying to revive her.

Q. You were trying to revive Miss [illegible]? A. Yes, sir.

Q. What else occurred, Miss Prevost?

A. We fixed some bicarbonate of soda and gave it to her, and she threw that all up.

Q. You say she threw it up -- did she vomit?

A. No, she didn't vomit -- just kind of -- we were holding her head. She just kind of moaved a little bit and this all went in the towel.

Q. When you first went in the room and saw her on that double bed, did you see any evidences on that bed, of vomiting?

A. No, sir, I never noticed.

Q. And when she vomited and you moved her onto that single bed, did she vomit in any manner violently?

A. No, sir.

Q. Now what else was done to, or with Miss [illegible] after you gave her this bicarbonate of soda? A. Mr. Fishbeck came in then.

Q. Mr Fishbeck came in. Then what happened?

A. And they filled the bathtub full of cold water and they stuck her in there.

Q. Now who put her in the bathtub?

A. Mr. Fishbeck helped to put her in the bathtub.

Q. Did you help? A. No, sir.

Q. Who helped Mr. Fishbeck?

A. Mrs. Belmont -- I don't know whether Alice did or not.

Q. How long did it take you to dump her into the bathtub and take her out again -- put her into the bathtub and take her out?

A. About half a minute.

Mr. Pickwick.

Mr. Pickwick.

Mr. Pickwick.

Q. Just gone a short time? A. Yes, sir.

Q. Then where did they bring her?

A. Put her in bed again.

Q. Then what was done to her?

A. Just dried her and laid her in bed.

Q. And did you see Mr. Arbuckle again in the room?

A: Yes, sir, she started to yell.

Q. Started what? A. Yelling again.

Q. What did she say?

A. She didn't say anything then -- just yelling.

Q. And was that in a loud tone of voice or a soft tone of voice she was yelling in? A. Loud.

Q. Then what, if anything, did you say while Mr. Arbuckle was in the room and while you were in the room?

A. He came over and said, "If she don't stop her yelling I will throw her out of this window." She stopped then.

Q. And what else, if anything occurred--go right on

A. What do you mean?

Q. Well, whatever you saw happen.

A. Mr. Arbuckle went into room 1220 and sat down, and I went in there then and Miss Taube came in.

Q. Came in the room - what room? A. Room 1220.

Q. How did you subsequently return to 1219 while Mr. Arbuckle was there? A. Yes, sir.

Q. And did you see Mr. Arbuckle do anything to Miss Rappe?

A. Yes, sir.

Q. What -- just tell the court.

A. Took a piece of ice and put it on her body.

Q. What part of her body? --Well you can just tell it to the court and the court can let us know, if you don't want the whole court room to hear.

A. Put it onto her vagina.

THE COURT: The witness said the word was "ok"-- for the information of counsel. It seemed to be a matter of some dispute yesterday.

MR [illegible]: No, they may relate to different times, your Honor.

THE COURT: Oh, I see.

MR [illegible]: Did you observe him very closely while he was doing this, Miss Provost?

A. Yes, sir.

Q. And what, if anything, was said by him or by anybody regarding this act?

A. He said "That will make her come to."

Q. And what, if anything, did anybody else say?

A. Mrs. Belmont said "Oh don't do that --" shoved his hand away.

Q. Then what did Mr. Arbuckle do or say, if anything?

A. He didn't say anything then that I remember.

Q. State all that Mrs. Belmont said.

A. That is all that I remember.

Q. In order to refresh your memory, Miss Provost, I will ask you whether or not Mrs. Belmont didn't say "Well, Roscoe, you have your little joke?" A. I don't remember that.

Q. Then after this ice episode, what if anything occurred in the room?

A. She started to yell, so I went over to the phone. I said "She is hurt. There is something the matter with her," and I wanted to phone for a doctor and somebody grabbed the phone out of my hand. They said they didn't want the notoriety -- I don't know who that was.

Q. Did you attend to Miss [illegible] any more during that afternoon?

A. No, I just went in to see her after she was removed into the other room.

Q. Now Miss Prevost, going back to this party -- was there a phonograph in room 1220? A. Yes, sir.

Q. When was it brought into the room?

A. Right after they got through eating.

Q. And before Miss Rappe and Mr. Arbuckle went into room 1219?

A. Yes, sir.

Q. Was that phonograph going, or was it still?

A. We had it going most of the time.

Q. And was it going during the time that Miss Rappe and Mr. Arbuckle were in room 1219? A. Yes.

Q. What were the people in 1220 doing during the time that Mr. Arbuckle and Miss Rappe were in 1219?

A. Alice Blake and Mr. Sherman were in room 1221 --

Q. I don't mean what each individual was doing -- but the people as a crowd, what were they doing -- sitting around, or talking?

A. Yes, sir, dancing and sitting around talking.

Q. Were they making any noise at all?

A. Yes, sir, plenty of noise.

Q. Considerable amount of noise, or just a little bit of noise?

A. I don't know -- making plenty of noise, and the victrola was going, and they were dancing.

Q. In other words, the party was having a general good time?

A. Yes, sir.

MR U'BRIEN: That is all. Take the witness.

CROSS EXAMINATION

MR DOMINGUEZ: Q. I understood your name was Mr. Jay Prevost?

A. Prevost.

Q. I didn't understand that you stated what your business was?

MR U'BRIEN: She didn't state it, counsel.

A. My business is now, do you mean?

MR DOMINGUEZ: Q. Yes, ma'am.

A. I am not doing anything just at present.

Q. Well, what has been your business?

A. Up until about a week ago I was at the Statler Hotel cigar stand.

Q. Have you ever been a model? A. Yes.

Q. Have you ever exhibited clothes -- that is, as a model?

A. Oh, yes.

Q. This day that you went out there, Mr. Fishback invited you, didn't he? A. He didn't invite me. Alice Blake called me up.

Q. Miss Blake called you up?

A. The day previous I got a call at home from the St. Francis to come up to Mr. Arbuckle's apartment, there would be a party up there -- in fact there were two calls -- I don't know who called because my mother got the call. They just left word there.

Q. Well, from whom did you get a call?

A. From whom did I get a call? I don't know who called. I wasn't

at home. They left word to come up to the St. Francis to Mr. Arbuckle's apartments.

Q. Well, you met Mr. Arbuckle that day for the first time, didn't you? A. I met him a few years ago a couple of times, but he didn't remember me.

Q. Had you ever been in his company before this day?

A. No.

Q. You met him, or looked at him on the screen?

A. No; I met him.

Q. How did you meet him? A. Through a man that knew him.

Q. Just casually? A. Just introduced to him.

Q. And that was several years ago? A. Yes.

Q. In the interim you had never seen him?

A. I beg your pardon?

Q. I say in the interim you had never seen him?

THE COURT: In the meanwhile -- since that time?

A. No, sir.

MR. BRADLEY: Q. On this day you were introduced to him again, weren't you?

A. I don't remember being introduced to anyone -- just came in and they said "Take your hat off and make yourself at home."

Q. Who said that? A. Mr. Sherman.

Q. Well, Miss Blake was there you say? A. Yes, sir.

Q. And Miss Taubo, was she there then? A. No, sir.

Q. Mrs. Delmont was? A. Yes.

Q. How was she dressed? A. She was in her street clothes.

Q. At that time? A. Yes, sir.

Q. And they were at the tables, weren't they when you got there--There were two tables set and persons at those tables dining; isn't that true? A. Yes, sir.

Q. No drinking at that time?

A. There were drinks on the table.

Q. Well, subsequent to that particular time -- let's get the time now, that you arrived there, if you can -- do the best you can.

A. One thirty -- around 1:30.

Q. How many times have you talked to Mrs. Belmont about the testimony that you were to give here in this trial -- this hearing?

A. I have never talked to Mrs. Belmont at all about the testimony.

Q. How many times have you talked to Miss Blake about the testimony that you were to give here -- wait a minute.

How long have you known Miss Blake?

A. A long time.

Q. That is rather vague--what do you mean by a long time -- four or five years? A. A long time.

Q. Six or eight years? A. No, not that long.

Q. Well, please tell us. A. I don't know.

Q. Three or four years?

A. About a year -- around a year.

Q. You have lived with her, haven't you?

A. No, I haven't lived with her.

Q. You have been social acquaintances have't you? A. Friends.

Q. You visit her apartments a good deal don't you?

A. What do you mean, I visit her apartments?

Q. Just exactly what I asked you.

A. Naturally if we are friends, we visit each other.

Q. In other words, she comes to your home and you go to her home?

A. No; Miss Blake has never been in my home until this thing happened.

Q. After this occurrence she has been at the St. Francis but she has been a visitor to your home?

A. No, she hasn't; she hasn't been to my home.

Q. I understood you to say she came to your home after this occurrence.

A. She and I have been together.

Q. I ask you if since this thing occurred she has been to your home? A. No.

Q. Then I misunderstood a moment ago, when I understood you to say she had been to your home?

MR [illegible]: She didn't say that --

MR [illegible]: Then I misunderstood you, did I?

A. Yes, sir.

Q. Since the 3d day of September, 1921, has Miss Blake -- what is her first name? A. Alice.

Q. Miss Alice Blake called at your home for any purpose whatsoever?

A. No, sir.

Q. Well now, do you know where she lives at the present time?

A. Yes, sir.

Q. Where? A. With Mother Duffy.

Q. Not having the pleasure of Mother Duffy's acquaintance, I want to ask you where she lives.

MR [illegible]: Well, we can tell you that Esther Duffy is the mother of George Duffy, an attache of the office of the District Attorney Brady, where they are living under very gentle and refined circumstances, surrounded by good home influences.

MR DOMINGUEZ: (After discussion) Well, she is living with Mrs. Duffy. You have been there to visit her at Mrs. Duffy's home?

A. I am living there also.

Q. You are living there also? A. Yes, sir.

Q. You have been living there at that place since what date?

A. I don't know the date, but ever since this thing happened.

Q. Since the 4th of September?

MR UANG: It happened on the 5th, Mr. Dominguez.

MR DOMINGUEZ: The fifth of September?

A. No, not the 5th -- about the 7th.

Q. You want to live there about the 7th. You want to live there after you had made a statement here to the chief of police, didn't you? A. Yes, sir

Q. And you made that statement to the chief of police and signed it, didn't you? A. No, sir.

Q. Was the statement shown to you? A. I don't remember.

MR [illegible]: Now, just a moment. That is not cross examination, if the Court please. There is nothing in the direct testimony about any statement. There are some limits to cross examination.

THE COURT: Well, perhaps counsel desires to produce some statements to contradict -- isn't that the purpose?

MR DOMINGUEZ: No, your Honor.

THE COURT: If that is not the purpose then the objection is perfectly valid.

MR. [illegible]: If he wants the statement we will read it.

MR. [illegible]: (After discussion) Of course you have seen her every day since that time up to this morning, haven't you?--Miss Blake?

A. Yes, sir.

Q. And you and she have talked about many things haven't you?

A. Yes, sir.

Q. And inclusive -- You talked about this case, haven't you?

A. No, sir.

Q. Haven't uttered one single word about this case since the day you went to live at Mrs. Duffy's with Miss Blake have you, Miss Prevost?

A. Not to Alice Blake.

Q. Ma'am?

A. Not to Alice Blake.

Q. You haven't mentioned this case nor your testimony, nor the events that transpired in that room up there on the 5th of September to Miss Blake at any time while you have been living there at Mrs Duffy's have you?

A. No, sir.

Q. Now then, you have talked with Mr. Duffy have you?

A. I haven't talked to anybody about the testimony.

Q. Then I understand you to say that since you went to live there at Mrs. Duffy's that you haven't talked to a single soul about what testimony you were to give here at this time; is that correct?

A No, sir.

Q. You haven't talked with anybody about your testimony here, have you, since you went to live there?

A. Only to the people in the district attorney's office.

Q. I mean you didn't talk to anybody there at home with Mrs. Duffy?

A. No, sir.

Q. How many times have you been to the district attorney's office since you went to live with Mrs. Duffy -- to talk about your testimony in this case? A. I don't know.

Q. Why -- because of such a relatively few numbers -- or a few number of times, or so many -- what?

A. About two or three times.

Q. It may have seem more, don't you think so?

A. I don't know.

Q. Ma'am -- did you answer the last question, please?

A. I don't know.

Q. In other words, you don't tell us whether you came three times, five times or ten times as I understand it; is that correct?

A. I came up to the district attorney's office but I never talked about the case very time I came up here.

Q. Who accompanied you to the district attorney's office when you went there? A. Mr. Duffy and his mother.

Q. At all times? A. Yes, sir.

Q. Well you remember having signed the statement, and I want to ask you further, didn't you refuse to sign that statement?

A. No, sir.

Q. Did you ever sign the statement?

MR [illegible]: Just a moment, if the court please. That question is objected to on the ground it is immaterial irrelevant and incompetent and not cross examination.

THE COURT: If it is counsel's purpose to introduce here any statement made by the witness time by her contradicting her present testimony in any respect I will permit the question for that purpose.

MR. DARROW: No, your Honor, I haven't any such idea. I can not have.

THE COURT: Then the objection will be sustained.

MR. DARROW: Q. Were you ever told by anyone that, provided you did not sign that statement, that you would be charged with perjury?

A. No, sir.

Q. Did Miss Blake come with you on any of these occasions?

A. Every time.

Q. And while walking down the street you didn't say a word to Miss Blake about the testimony you were to give here?

A. We didn't walk. We rode.

Q. Well, while riding to the district attorney's office you didn't speak to Miss Blake a word about the testimony you were to give here? A. No.

Q. Nor did you suggest to her any of the incidents that had occurred down there in those rooms on the 5th?

A. No, sir.

Q. Never discussed any events of that at all, at any time with her, did you? A. No, sir.

Q. Now you arrived there about one o'clock -- 1:30 -- and you found all these parties there -- up to the time that you say that Miss Blake -- or Miss Magie walked into Lyle -- Just a moment--

withdraw that.

With reference to the time that you arrived at that place, when was it that Miss Kaye walked into 1219 -- how long after?

A. Do you mean the time?

Q. Yes, ma'am. A. I don't know the time.

Q. Well not the exact time to the second -- within a reasonable time -- haven't you told us you arrived there about 1:30 -- I understood you to say? A. Yes, sir.

Q. Well now, how long after that did Miss Kaye, according to your best recollection --

A. I don't know the time. We were having too good a time to notice the time.

Q. Well you were drinking some yourself? A. No, sir.

Q. Didn't you drink at all? A. I didn't take a drink.

Q. Mrs. Delmont didn't drink either, did she? A. Yes, sir.

Q. Well would you say that it was three quarters of an hour after you arrived there that Miss Kaye walked into 1219?

A. I don't know; I don't know the time at all.

Q. How many drinks, if you know, had Mrs. Delmont had, between the time that you arrived and the time that Miss Kaye disappeared into 1219? A. I couldn't count them.

Q. How was Mrs. Delmont dressed when Miss Kaye disappeared?

A. Mrs. Delmont wasn't in the room when she went in there.

Q. Oh, I see. How soon after Miss Kaye went into 1219 did Mrs. Delmont appear -- come back?

A I don't know the time -- a few minutes later.

Q. So that when Miss Mappe disappeared you and who else were in 1220? A. I was sitting there alone.

Q. You were there alone? A. Yes, sir.

Q. So that at the time that Miss Mappe got up to go into 1219, you and Mr. Arbuckle and Miss Mappe were alone in 1220; is that correct?

A. No.

Q. Well, who else was there then?

A. Mr. Sherman and Alice Blake.

Q. Well, did Mr. Sherman and Alice Blake go away?

A. Mrs. Belmont was in the other room changing her dress. Miss Mappe got up and went through room 1221 and knocked at the door and said, "Maudy, Maudy, let me in." She said, "Go around the other bath room. I am changing my dress." She came into room 1221, into room 1220 and went into room 1219.

Q. She just walked into 1219 did she?

A. Kind of skipped in.

Q. Sort of danced her way into 1219, is that it? A. Yes, sir.

Q. She opened the door did she, herself?

A. No, sir, the door was opened.

Q. The door was opened and she walked right in herself?

A. Yes, sir.

Q. Did she close the door? A. No, sir.

Q. Now, at the time that she skipped into 1219 who was in 1220 -- who actually was there now, please?

A. When she came in through 1220 to go into 1219, Alice Blake got up and walked into room 1221 -- Mr. Sherman following her -- I was sitting there all alone on the settee.

Q. Where was Mr. Arbuckle at that time?

A. He was standing by the table.

Q. Oh, standing by the table? A. Yes, sir.

Q. Mr. Arbuckle, while you were there, was courteous to you, and gentlemanly, wasn't he? A. Yes, sir.

Q. His treatment of all the ladies, as you remember and see it now, was that of a gentleman? A. Yes, sir.

Q. He did nothing untoward or improper, while you were there, to any of the ladies? A. No, sir.

MR O'NEIL: You mean while he was in 1220?

MR DENIGOUX: At any time.

THE COURT: That will be understood.

MR DENIGOUX: Q. Do I understand your testimony to be, at the moment when Miss Maude went into 1219 that she was present in 1220 except yourself? A. Yes, sir.

Q. Well, how many minutes elapsed, or what time elapsed between the time that she went into 1219 and the time that Mr. Arbuckle left 1220? A. He followed her right in and closed the door, and I got up and went into room 1221 where Alice and Mr. Sherman were.

Q. Do you know what time that was? A. No, sir.

Q. Then you went into -- A. 1221.

Q. Was that door looked -- closed, rather?

A. Which door?

Q. The door leading between 1220 and 1221? A. No.

Q. Could you see into 1220? A. From 1221?

Q. At this time?

A. I was sitting in 1220 -- I don't understand you.

Q. It is probably my fault -- I misunderstood that. I want to make it clear. You just told us that Mr. Arbuckle went into 1219, closed the door, and as you say, locked it?

A. I don't know whether he locked it or not.

Q. You didn't hear a turning of any bolt, did you?

A. I never noticed. I got up and went into room 1221.

Q. I want to know if, while you were in 1221 you could look out at this particular time, into 1220?

A. You can look into 1220 and see part of the setter -- part of the room.

Q. Could you see the door from where you were now, Miss Everett -- I don't know just where you were -- looking into 1219?

A. What door?

Q. The door that leads into 1219 from 1220?

A. Yes, I was sitting on the--

THE COURT: No, I think you don't understand counsel's question. He wants to know whether, when you were in room 1221, you could see the door that led from 1220 to 1219. Isn't that the idea, counsel?

MR DOMINGUEZ: Yes, sir.

THE COURT: Do you understand the question?

A. The door leading from 1219 into 1220?

THE COURT: Listen to me. I will state the question. Q. When you were in room 1221, could you see the door which led from 1220 to 1219?

A. No, sir.

THE COURT: Q. So you cannot tell us whether or not Miss Blake or Mr. Arbuckle -- wait a minute.

Now how long did you remain in 1221?

A. Just went over to the mirror to powder my nose.

Q. Well how long did that take you, do you suppose -- How long were you in there? A. About a minute.

Q. Then what did you do? A. Came into room 1221.

Q. Who was in 1220 then? A. Nobody.

Q. How long did you remain in 1220 alone?

A. At that time?

Q. Yes, ma'am. A. I don't know whether Alice Blake or Mr. Sherman came in with me or not. I don't remember that. But Mrs. Belmont came in then with Mr. Portlouis.

Q. Well how long --

THE COURT: One second now. How did Portlouis appear on the scene? He hasn't been mentioned by you up to this time. You say he came in with Mrs. Belmont. Mrs. Belmont, as I understand it, was in room 1221, was she not?

A. She was in the bath room changing her dress.

MR. DOMINGUEZ: Q. She was in the bath room off of room 1221 changing her dress?

A. Yes, sir.

Q. Now she appears in room 1220 with Mr. Portlouis?

A. Yes, sir.

Q. Did they come into the room together?

A. She came in first and he came in behind her.

Q. Where did they come from?

A. I don't know. She was in the bathroom. He may have come through the hall -- I don't know where he came from.

Q. Of course after you got back into the room then, Miss Prevost, you and Mrs. Belmont and Mr. Portelois and the other parties who were there were of course listening to the Victrola?

A. Yes, sir.

Q. And the other parties were drinking? A. Yes, sir.

Q. The Victrola was going on -- different songs and all sorts of music; is that true? A. Yes, sir.

Q. Dancing? A. Yes, sir.

Q. You kept no special track -- you didn't keep any watch out to know the time, did you? A. No, sir.

Q. You kept no special track of time at all?

A. No, sir.

Q. In other words, you were there and just conscious of the one thing, that you were just having a general good time?

A. Yes, sir.

Q. Not conscious of the time as it was passing, or anything else?

A. No, sir.

Q. Now, with reference to the time -- I understood you to say that Mrs. Belmont called out there at one time when she went to the door of 1218?

A. She didn't call out until she went over there to speak to Virginia. She wanted to talk to Virginia.

Q. Well, at this time, what was the condition of Mrs. Belmont with reference to sobriety? A. She was drinking.

Q. Pretty drunk wasn't she? A. Yes, sir.

Q. She had in your presence, consumed some twelve or fifteen drinks of Scotch whiskey hadn't she?

A. I don't know what she was drinking. She was drinking everything.

Drinking everything--by that you mean she drank a gin and she drank Scotch whiskey and anything that was given to her, or that she was able to take from the table; is that it?

A. Yes, sir.

Q. She was then dressed in pajamas, wasn't she?

A. Yes, sir.

Q. What did she have on her feet, do you know? A. Shoes.

Q. Are you sure about that? A. Yes, sir.

Q. What color were they? A. Black.

Q. How many drinks, if you can remember, did she have, from the time you first arrived about 1:30, Miss Provost, until the time that she went to bed? A. I couldn't count them.

Q. Well, she was having them right along, wasn't she?

A. Yes, sir.

Q. Would you say that you saw her take twenty drinks?

A. I don't know, I couldn't say.

Q. About that many, though, don't you think so?

A. I couldn't say.

Q. Well, assuming that she should say that she had had twelve, would you think that that estimate of the number of drinks that she had would be about right?

A. I don't know how many drinks she had.

Q. Do you know whether or not she had a pint bottle there-- In other words whether she drank more of the Scotch than she did of the gin?

A. I never noticed.

THE COURT: Counsel, what is the difference? The witness has testified this woman was drunk. That is the ultimate fact. We don't care so much how she got drunk as long as she was drunk. You were trying to prove it, and she has proved it.

MR GOLDEN: Your Honor, the answer to your Honor's question might be that the art of cross examination consists in the art of asking irrelevant questions.

THE COURT: Sometimes the real way of cross examination consists of not asking any questions at all.

MR DOMINGUEZ: (After discussion) Miss Prevost, now we have reached the point of where there is a call at the door. I want to know what Mrs. Delmont actually said.

A. When she went to the door?

Q. What Mrs. Delmont actually said when she went to the door.

A. She said "Open the door--" I don't know the exact words, but she said, "Open the door; I want to speak to Virginia. I just want to talk to her."

Q. Is that all she said? A. Yes, sir.

Q. Now at the time you say she said these things, who was actually present there at that time?

A. Just she and I.

Q. Is that all? A. Yes, sir.

Q. You are sure Mr. Fishback wasn't there?

A. No, sir.

Q. Are you sure that he wasn't there?

A. He wasn't there.

Q. Are you sure that Mr. Bemmacher wasn't there?

A. He wasn't there.

Q. Are you sure that Mr. Sherman wasn't there?

A. Mr. Sherman was in room 1221.

Q. I am asking you if, at that door, if Mr. Sherman was there?

A. No, sir.

Q. I am asking you if Miss Blake wasn't there?

A. No, sir.

Q. Did the door open -- did someone open the door?

A. Mr. Arbuckle opened the door.

Q. Now prior to that time, had you heard a single sound coming from that room? A. No, sir.

Q. Had you heard any screams? A. No, sir.

Q. Had you heard any moans? A. No, sir.

Q. Had you heard anything at all - mind you - that might have been called even a cry of any kind at all? A. No, sir.

Q. Immediately, mind you, and almost simultaneous - that is, right together - with Mrs. Belmont standing by the door and making the statement that you have just uttered that she said - I want to know if you heard any kind of a scream coming from inside that room?

A. No, sir.

Q. Well, the door was opened by whom, please?

A. By Mr. Arbuckle.

Q. He was robed with a bathrobe and a pair of pajamas, is that correct? A. Yes, sir.

Q. And you went over to the bed? A. Yes, sir.

Q. Now who went over to the bed with you? A. Mrs Belmont.

Q. No one else? A. No, sir.

Q. Didn't Mr. Sommacher go in?

A. He wasn't there at that time.

Q. Did he go in with you at that time? A. No, sir.

Q. Did not Mr. Fishbaum go in with you at that time?

A. He wasn't there at that time.

Q. Or, isn't it true that Mr. Sommacher went in there and sat on one side of the bed while Mrs. Belmont was sitting on the other side of the bed? A. No, sir.

MR [illegible]: Sommacher testified yesterday - the other day - that the first he saw of the girl was when she was nude.

MR [illegible]: Now at this time Miss [illegible] was in that double bed -- you say that was wet? A. Yes, sir.

Q. You could tell that that was vomit, couldn't you?

A. No, sir.

Q. You couldn't tell that? --Nothing to indicate that the young lady there had had a vomiting spell?

A. Nothing at all.

Q. Now at that time, or immediately after, she commenced to tear her clothes off herself didn't she? A. Yes, sir.

Q. That is, tearing her shirt?

A. Tearing her little waist off.

Q. Do you know whether or not she had on at that time the undergarments -- that is, the pantaloons?

A. I never noticed that.

Q. You told us that she was tearing at her stockings?

A. Yes, sir.

Q. Attempting to tear off the stockings?

A. Tearing -- pulling at them, like this (illustrating). She tore one garter.

Q. Was she tearing at her body generally?

A. Just tearing at her waist, like this, pulling.

Q. Did you see her press herself hysterically -- did you see her pull herself or press herself -- something in the way I am illustrating to you? A. No, just pulling on her waist -- just tearing her waist off like that -- this way (illustrating)

Q. Did you see her get hold of her arm at any time?

A. I never noticed.

Q. Didn't Mr. Semmacher come into the room right about this?

A. Mr. Semmacher was not there.

Q. Did not Mr. Fishback come into the room then?

A. He wasn't there.

Q. Immediately after this, the young lady -- well, she was dumped into a tub of water, wasn't she?

A. Alice and I put her from one bed to another. Then Mr. Fishback came in.

Q. And Fishback dumped her into this tub of water?

A. Helped to put her in there.

Q. He dumped her in?

A. No, he didn't dump her in. He lifted her up. He did not dump her in.

MR. [illegible]: The idea is that the bladder was burst in the violent throwing of her into the bathtub?

MR COHEN: What is the idea?

MR [illegible]: I don't know. I was just wondering.

MR COHEN: We are all wondering.

MR [illegible]: Mrs. Helmont was there then wasn't she?

A. She was there then.

Q. So that according to you, the only persons who were in the room - mind you - after that door was closed, was Mr Arbuckle, Miss Haire, yourself, Mr. Fishbeck --

A. Not the minute the door was closed -- Mr. Fishbeck was not up there.

Q. He came in subsequently?

A. He came in when she was all undressed, and went to put her in the bathtub.

Q. That --She was in there during the time she was being undressed?

A. Mrs. Helmont, and myself and Mr. Arbuckle.

Q. Did you see any ice there at the time?

A. No, sir. There was ice in the other room.

Q. You said that you were making an effort to revive her?

A. Yes, sir.

Q. She was [illegible] drunk at that time wasn't she, as you saw it?

A. No, sir. I didn't see her only take about a half a glass of gin, and orange juice.

Q. Well, acting like a hysterical woman at that time wasn't she?

A. Well, I don't know. I thought she was sick. I didn't know what was the matter with her.

Q. She said herself at the time that she didn't know anything that was the matter with her--at that same time?

A. She never talked. She only said "I am dying". That is all she said. She never talked after that at all.

Q. I thought you said she said "I am dying, I am dying?"

A. After we took her out of the bath tub and she started to yell, Mr. Arbuckle said if she would let one more yell out he would throw her out of the window, she didn't say any more -- that is, I did not hear her say any more.

Q. All you heard her say was, "I am dying, I am dying?"

A. She said "He hurt me," when we were giving her that bicarbonate of soda.

Q. Who suggested giving her the bicarbonate of soda?

A. Alice.

Q. Miss Blake? A. Yes.

Q. She suggested the ice water -- giving her a cold bath?

A. I don't remember who suggested that.

Q. Did anybody rub her with ice?

A. No; somebody put a little sack of ice by her head, and I threw it off the bed.

Q. Who brought the sack of ice in? A. I don't know.

Q. Where did it come from? A. From the other room.

Q. How do you know?

A. Because there was ice in a bowl in there.

Q. Who brought it in? A. I don't know.

Q. Did any of that ice get out of that sack?

A. I don't know that.

Q. You were there weren't you? A. Yes, sir.

Q. You were looking on, weren't you?

A. I didn't see everything. I was trying to revive her.

Q. You didn't see any of that ice get out of the book at any rate, did you? A. No, sir, it was wrapped in a towel.

Q. Did you see anybody there at that time have any ice in his or her possession? A. No, sir.

Q. Now you are just as correct in this statement as you have been in every statement you have made; isn't that true?

A. Nearly.

Q. Nearly? A. Yes, sir, I just got remember everything.

Q. You didn't see any ice at that particular time in the hand of any person in that room, did you? A. No, sir.

Q. Nor at any time, did you? A. No, sir.

Q. Don't you know that in your presence Mrs. Belmont took the pantaloons off Miss Kappe?

A. I don't remember her having the pantaloons on; I don't remember about the pants at all.

Q. You did see her vomit though, didn't you, - Miss Kappe?

A. She threw up -- yes, in a towel. I gave her the towel.

Q. The vomiting spells were violent, weren't they? A. No.

THE COURT: The witness has not said she had any spells. Her testimony was that after she gave her the bicarbonate of soda that she threw it up. That was the testimony of the witness.

MR. DARROW: I thought I had a right, on cross examination, to assume almost anything, and I assume she had violent spells. I don't know. I am trying to get the facts.

MR. [illegible]: The witness has answered that question on cross examination, to my count, four times.

MR DOMINGUEZ: Q. When you put her in the other bed she vomited, didn't she?

A. She didn't throw up at all. She didn't vomit at all until we gave her the bicarbonate of soda.

Q. Now then, Mr. Fishback came in and he went in there and picked her up, didn't he? A. Helped to pick her up.

Q. And someone helped him take her into the bathroom?

A. Alice and Mrs. Belmont.

Q. And then she was put in the water? A. Yes, sir.

Q. And brought back to the bed? A. Yes, sir.

Q. And dried; is that it? A. Yes, sir.

Q. And then after that she was taken into room 1227?

A. Yes, sir.

Q. Is there anything that you have stated in any statement -- or anything that you may have told to the grand jury -- or anything that you know now that you haven't stated here before this court at this time? --and if so, state it.

MR [illegible]: I think a question like that is highly improper.

MR O'[illegible]: Incompetent, irrelevant and immaterial and not the proper method of impeaching the witness.

MR DOMINGUEZ: I am not attempting to impeach any witness at all. I will withdraw that question. Q. Have you related now, at this time, all that you know or can remember of the incidents connected - mind you - with the affairs that transpired up there in the Arbuckle rooms on that day?

A. All that I can remember.

MR [illegible]: We object to that upon the ground that that is wholly

an improper question.

MR DOMINGUEZ: Why is it improper?

MR GOLDEN: It is not the right method.

THE COURT: Of course it is not, and counsel knows it. The witness might tell us a lot of things that we are not concerned about at all. He might start in and tell us about the kind of hats that were worn, or the state of the weather -- the kind of music they played on the Victrola and stuff like that, that we are not concerned about here. The question is too general and too vague.

MR DOMINGUEZ: I will limit to anything that you think that may be of benefit to all parties in ascertaining the truth.

MR GOLDEN: Same objection.

THE COURT: This witness isn't competent to determine what we wish to ascertain here -- and possibly she is not competent to decide what constitutes the real truth.

MR DOMINGUEZ: Then your Honor rules that I can't ask the question, is that it?

THE COURT: That kind of a question.

MR DOMINGUEZ: Well, the young lady was taken into [illegible], Miss Provost? A. Yes, sir.

Q. Who carried her in there?

A. I don't know who carried her in.

Q. You did not see anyone carry her in? A. No, I wasn't there.

Q. Did you go away immediately after the young lady was given the bath? A. No, sir, I was talking to Ray Daube in room [illegible].

Q. So you didn't see who carried her out?

A. No, sir.

MR DOMINGUEZ: That is all.

REDIRECT EXAMINATION

MR [illegible]: Q. Counsel has asked you concerning the fact of whether or not you saw any ice in anyone's possession while in room 1219. You already testified you saw ice in Mr. Arbuckle's possession, haven't you?

MR DOMINGUEZ: That is objected to, if your Honor please, as grossly leading and suggestive to the witness what other party. This witness has testified there was ice there. She didn't say in whose possession it was at all.

THE COURT: It is not proper redirect examination. Objection sustained.

MR [illegible]: Q. When Mr. Arbuckle put this ice on Miss Rappe, as you testified, where did he have it?

A. In his hand.

Q. Counsel has also asked you with whom you have talked to concerning this case. Has any counsel in the case talked to you about the case, either directly or indirectly?

A. Mr. Brennan.

Q. When? A. One day I met him on the street.

Q. Where, Miss Prevost -- where did you meet him?

A. Met him on Market Street.

Q. Was that after Miss Rappe's death? A. Yes, sir.

Q. What did Mr. Brennan say to you?

A. Just asked me if I had a lawyer -- if I needed a lawyer, to call on him. I said "Sure."

Q. Did he ask you anything further about you remaining in town, or

going out?

A. He asked me about staying in town. I said "I may stay in town a few days until this thing is over."

Q. Was it then he asked you if you needed a lawyer to come to him?

A. No, he asked me at first. He said "If you need me, call me up."

Q. What did he say about your leaving town?

A. He never said anything.

Q. What was your conversation upon that subject?

A. I said I was going to leave town for a few days.

Q. And then what did he say?

A. He didn't say anything then. I don't remember what was said then. Just said "Call me up if you need me."

Q. Now give us the full conversation from the time that you met Mr. Brennan.

A. He just said "Hello, Jay." I said "Hello". He said "If you need a lawyer, call me up." I said, "All right." I said, "I am going to leave town for a few days." He said "Call me up if you need me."

MR. [illegible]: Miss Prevost, did he suggest that you leave the city?

A. No. I just said I was going to leave town.

Q. Did he in any way at all indicate to you that he wanted you to leave the city of San Francisco?

A. No. He just asked me if I needed a lawyer -- I said I was going to leave town for a few days.

Q. You just met him by accident, didn't you?

A. Yes, sir.

MR. [illegible]: I desire to have this witness, if your Honor

please, for one or two further questions.

MR GOLDEN: Here, take it.

MR DOMINGUEZ: No, I am not prepared to do that now. And I want her under subpoena until this afternoon. We will see whether she has talked to another lawyer or not.

THE COURT: [illegible] Miss Prevost, as the deceased was walking or tripping through room 1220 from room 1221, and went into room 1219, were any words interchanged at that time, and previous to her entering room 1219, between her and the defendant?

A. No, sir, not that I remember.

Q. Nothing was said by her to the defendant, or by the defendant to her as she went through the room?

A. Not that I remember.

Q. And he followed her into the adjoining room, 1219, without any interchange of words at all?

A. I don't remember any.

Q. Now as to her attire. You say she was fully clad when you came into the adjoining room, after the door was removed?

A. Yes, sir.

Q. She was fully clothed -- meaning by that, I presume, shoes and stockings and the usual clothing that a woman has on?

A. Yes, sir.

Q. All her street clothes? A. Yes, sir.

Q. Her outer coat, such as you have now, was that on or off?

A. No, she didn't have that on.

Q. The shirtwaist was a perfect garment -- a lady, I presume is sometimes dressed when she has a shirtwaist on?

A. Yes, sir.

Q. Now in removing the shirtwaist did you state whether or not the shirtwaist was torn in the process of removal?

A. She tore it herself.

Q. You actually saw her tear the shirtwaist in trying to take it off? A. She was pulling at it-- tearing it off of her.

Q. And how about the stockings -- did you see the stockings torn as they were being taken off or not?

A. She tore her own stockings -- just pulled it to pieces -- pulled it up like this -- pulled it and grabbed it -- a big hole in it.

Q. You actually saw that yourself? A. Yes, sir.

Q. Did you or Mrs. Delmont, or whatever her name is, try the rear of the door before you rapped at it?

A. Mrs. Delmont did.

Q. Did you see her do it? A. Yes, sir.

Q. Could you tell whether or not the door was locked?

A. It was locked. She tried to get in.

THE COURT: Any further question at this time, gentlemen?

MR GOLDEN: That is all, your Honor. I understand Mr. Dominguez has some further investigations to make between now and the afternoon adjournment.

MR DOMINGUEZ: No investigation.

MR O'BRIEN: Some further questions.

MR GOLDEN: You are not prepared to ask them now?

MR O'BRIEN: You will return then, Miss Provost?

THE COURT: Now gentlemen, I will not tolerate any commotion in the court;-Any movement of spectators until the court adjourns--

If people are in this court simply for the purpose of amusing themselves and being interested as long as the examination of witnesses is in progress, it would be better that they were not here at all. This is a court of law, and it is going to be conducted as such. Let everybody understand that.

(Recess until this afternoon at 2:00 o'clock.)

AFTERNOON SESSION

MR DOMINGUEZ: Mr Golden, those charts you spoke of the other day -- those clinical charts the young lady was to bring -- they haven't been brought. I want those, if we have to bring them ourselves.

MR GOLDEN: Mr. Dominguez says he has no further questions to ask of Miss Prevost, and under the circumstances we will call Miss Blake.

MR DOMINGUEZ: Your Honor, the other day when a young lady was testifying -- I don't remember her name -- one of the attendant nurses in the Bakefield hospital - she testified there were some charts that were made. I appreciate what those are -- clinical charts of the patient's condition during all the time she was in that institution. I understood the district attorney to say those would be produced.

MR GOLDEN: We have sent for them. They are in the property clerk's office.

MR DOMINGUEZ: Thank you.

ALICE BLAKE

Called as a witness in behalf of the people, sworn.

MR GOLDEN: Q What is your name?

A. Alice Blake.

Q. What is your business? A. Entertainer.

Q. For what place? A. Tait's.

Q. Do you know a gentleman by the name of [illegible] Arbuckle?

A. Yes, sir.

Q. Where did you meet him?

A. I met him at the St. Francis Hotel.

Q. In his rooms? A. Yes, sir.

Q. What day? A. Labor Day.

Q. September 5th? A. Yes, sir.

Q. This year? A. Yes, sir.

Q. Did you go to those rooms? A. Yes, sir.

Q. On September 5th, 1921? A. Yes, sir.

Q. At the St. Francis Hotel? A. Yes, sir.

Q. About what time did you go there?

A Between one and two.

Q. What room did you go in -- do you remember the number?

A. 1220.

Q. Now when you got there whom did you see?

A. Mr. Arbuckle, Mr. Sherman, Miss [illegible], Mrs. Delmont and Mr. Fortlouis.

Q. How was Mr. Arbuckle dressed?

A. Mr. Arbuckle had on a room -- bedroom slippers and pajamas.

Q. How was Mr. Sherman dressed?

A. Mr. Sherman had on a room, slippers, and B. V. D.'s.

MR [illegible]: The court will take judicial notice of that es-

pression. Q. How about the rest of the party - how were they dressed? A. All fully dressed.

Q. Later on did anyone change his or her garments?

A. Yes, sir.

Q. Who? A. Mrs. Delmont.

Q. What did she do?

A. She put on a pair of gentleman's pajamas.

Q. Do you know, Miss Kay Prevost? A. Yes, sir.

Q. Did she come into those rooms after you got there?

A. Yes, sir.

Q. Without pinning you down to the time, about how long after you got there was it that Miss Prevost came?

A. Well about fifteen or twenty minutes later.

Q. Now at any time while you were in room 1210 did you see Miss Rappe get up and start to go somewhere? A. Yes, sir.

Q. Tell us what you saw?

A. I saw Miss Prevost go toward the door of room 1219.

Q. Miss who? A. Miss Rappe.

Q. Then what did you see?

A. Mr. Arbuckle followed, toward the room 1219.

Q. Did she walk behind --

MR DEMINGUEZ: Just a moment. Let her state.

MR GOLDEN: Q. Did he walk in the same direction in which Miss Rappe walked?

A. Yes, sir.

Q. In front of her, or behind her? A. Behind her.

Q. And as I understand, you saw Miss Rappe walk toward 1219?

A. Yes, sir.

Q. And you saw Mr. Arbuckle following behind her? A. Yes, sir.

Q. Now, did you see Miss Mayo actually enter room 1219?

A. No, sir, I did not.

Q. Did you see Mr. Arbuckle actually enter room 1219?

A. No, sir.

Q. As Miss Mayo was walking toward 1219, Mr. Arbuckle following behind, what did you do?

A. I went to 1221.

Q. Now did you after that -- after you saw Mr. Arbuckle following Miss Mayo toward 1219, did you see anybody try to get into 1219?

A. Will you please repeat that?

Q. I say, after you saw Miss Mayo going toward 1219, Mr. Arbuckle following her -- later on did you see anybody try to get into room 1219? A. Yes, sir, later on.

Q. What did you see? A. Mrs. Delmont.

Q. What was she doing?

A. She was knocking with her fists and kicking on the door of 1219.

Q. That is she was knocking with her fist on the door connecting 1219 and 1220? A. No, 1219. She was kicking on the door of room 1219.

Q. And the door, you mean, connecting 1219 and 1220?

A. Yes, sir.

Q. And that is the door on which she was kicking? A. Yes, sir.

Q. Did Mrs. Delmont, while she was kicking and knocking on the door leading into 1219, did she say anything? A. Yes, sir.

Q. What was it? A. "Let me in."

Q. Did you notice whether Mrs. [illegible] tried to open the door?

A. No, sir, I went out of the room again.

Q. You went out of the room? A. Yes, sir.

Q. When this happened was anyone else in the room with you besides Mrs. [illegible] and yourself, if you remember?

A. Miss Provost, I think.

Q. You think Miss Provost was there? A. Yes, sir.

Q. You are not sure about it? A. No, sir, I am not sure.

Q. Now then, you went into 1211 at that point?

A. I don't know if it was just -- well at the point that I saw Mr. Arbuckle and Miss Rappe going towards 1219, I went in the room -- the other room, 1221.

Q. When did you next, if at all, see Miss Rappe?

A. Miss Rappe, I saw her in room 1219.

Q. Was there an interval of time between the rapping and the opening of the door, and the time you saw Miss Rappe in 1219?

A. Yes, sir.

Q. Quite a little while? A. Yes, sir.

Q. What room did you come from when you again saw Miss Rappe, in 1219? A. 1221.

Q. When you went in the room 1219 and you saw Miss Rappe, where was she? A. She was lying on a bed nearest the wall.

Q. You will notice, Miss Blake, that there is a double bed in room 1219 -- I am pointing now to a diagram that has been introduced in evidence. A. Yes, sir.

Q. Is that the bed on which you saw Miss Rappe?

A. Yes, sir.

Q. What was her condition when you saw her?

A. She was nude.

Q. When you went into this, did you go in alone at that point?

A. Miss Prevost, I believe, followed me.

Q. She came in after you did?

A. I entered first at that point.

Q. Did you notice the condition of her hair -- Miss Mayo's hair?

A. Yes, sir.

Q. Tell us about that? A. Well it was down.

Q. Down? A. Yes, sir.

Q. Did Miss Mayo say anything when you saw her? A. Yes, sir.

Q. What was it? A. She said she was dying.

Q. Anything else?

A. Well then I moved her from that bed to another bed. I moved her to the single bed.

Q. When you say that you moved her, you mean you moved her from the double bed-- A. To the single bed.

Q. To the single bed that is shown here on the diagram I am now pointing to; is that right? A. Yes, sir.

Q. Did you notice the condition of the double bed on which you first saw Miss Mayo, with respect to its being dry or wet?

A. It was quite wet.

Q. Tell us how wet and where it was wet.

A. Well, it was wet in the center of the bed.

Q. In the center of the bed? A. Where she was lying.

Q. Where Miss Mayo was lying? A. Yes, sir.

Q. Do you mean around the middle part of Miss Mayo's body?

A. Yes, sir.

Q. You say that you took Miss Mapp from the double bed and put her onto the other bed? A. The single bed.

Q. What next took place?

A. I gave her a glass of hot bicarbonate of soda, and she vomited.

Q. Threw it up? A. Yes, sir.

Q. After you put her on the single bed, did anybody else come into the room 1219? A. Quite a number came in and out all the time.

Q. Who were they? A. Dr Fishbein, Dr Semmacher, and Mr. Arbuckle. We moved her from that single bed into the bath, and left her in there just a short period, and we took her out and we dried her, and she was removed again back to the single bed; and she moaned a good deal, and she cried she was dying. She said 'I am dying; I am dying; he hurt me.' and one of us said she wasn't going to die, but she said she knew she was.

Q. Can you tell us if anyone was in the room at the time when she said, "I am dying, I am dying, he hurt me?"

A. I think Miss Prevost was in the room, and Mr. Arbuckle.

Q. Did Mr. Arbuckle say anything at that time?

A. He said 'You are crazy --' something about 'You are crazy. Shut up or I will throw you out of the window.' I don't know if those were his exact words.

Q. Those are the exact words?

A. I don't know if they are, but words similar to them.

Q. That is the substance of them? A. Yes, sir.

Q. Now when Miss Mapp was lying on either bed moaning -- crying --

did she do or say to show where she was hurt?

A. She grabbed her hands this way, and rolled like that (indicating).

Q. When you say "this way" you mean rolling her hands on her abdomen? A. Yes, sir.

Q. Around the middle portion of the body; is that right?

A. Yes, sir.

Q. During this time did you see Mr. Arouskie do anything to Miss Rappe? A. Yes, sir.

Q. What was it?

A. He placed a piece of ice on a part of her body.

Q. Now you can tell the jury -- whether it is the jury where you saw Mr. Arouskie place a piece of ice on Miss Rappe's body.

A. Well, on her vagina.

Q. Now when Mr. Arouskie did that, did anyone say or do anything?

A. Mrs. Delmont made some sort of a remark that Mr. Arouskie thought it was -- took everything as a joke, but it wasn't -- something like that,--something similar to that-- about it being a joke.

Q. Miss Rappe was in great pain during this time, is that right?

A. Yes, sir.

MR BROWN: Take the witness.

CROSS EXAMINATION

MR [illegible]: Isn't it a fact that when Mrs. Delmont knocked at that door, and kissed at that door, that Miss Prevost and yourself went in to the room, and that immediately thereafter Miss Rappe commenced to tear off her shirt and tear her clothes?

A. I wasn't present at that time.

Q. Did you come in with them?

A. No, sir, I did not.

Q. Didn't you testify that you were the first one in the room?

A. Not at that period.

Q. What period then? A. At the period -- I was the first to go in the first time I saw Miss [illegible] -- I mean at the period I went into the room I was the first one to go in.

Q. Then you came out and you said something, didn't you?

A. What do you mean?

Q. Well, you made a statement there to the effect that she was sick didn't you, Miss Blake? A. Yes, sir, she was sick.

Q. You came out and so stated, didn't you?

A. That she was sick.

Q. And then everyone went in, is that it?

A. Well, at the time I did not see them go in the room, and when the door opened I was not in the room, and I was not in the sitting room of 1220 when the door was opened. I did not see Mr. Arbuckle come out of the room, or Mr. Arbuckle go in the room. There may have been people entered that room before I had entered it at all. I said at the time -- the period I entered the room I was the first to enter, and Miss Prevost in back of me.

Q. Was that almost simultaneous with the act of Mrs. Delmont kicking at the door?

A. I could not say that, because I went out of the room when I saw Mrs. Delmont kicking on the door-- I went into suite 1221.

Q. Then you came back and when you entered the room then she was nude? A. Yes , sir.

Q. Did you see her clothing there? A. Yes, sir.

Q. Now who moved her over to the single bed? A. I did.

Q. Alone? A. Yes, sir, I lifted her from that double bed into the single bed. Her head was up this way, and I lifted her as I would a child, and I walked backwards with her and put on this single bed right in the center of it and somebody assisted me to get out from underneath her body -- I had to wriggle myself out from underneath her -- and I got out about the foot of the bed on that side -- between the two beds.

Q. Did you see her fall between the two beds at any time, Miss Blake?

A No, sir, I did not.

Q. You have no recollection at all about that?

A. She was lying all the time I saw her, except when we picked her up from the tub to put her on the toilet seat, to dry her.

Q. From the single bed you took her to the tub? A. Yes, sir.

Q. Who took her over there?

A. I think Mr. Fishbach carried her.

Q. He popped her in the tub?

A. No, sir, because I assisted her in the tub, and we were very careful how we put her in the tub.

Q. And you kept her there a moment or two and took her back and dried her? A. I think Mrs. Helmcamp was the one assisted me and helped her out. There might have been another party. I think I took the upper portion of her body and sat her on the toilet seat. And then we dried her, and then somebody helped lift her and bring her back to the single bed.

MR. CHILSTROM: That is all.

MR GOLDEN: Q. Counsel on cross examination asked you if you saw the clothes of Miss [illegible] -- where were they?

A. They were on a chair, some and some some place else -- I don't know exactly -- but the ones I handled were on a chair.

Q. You say you handled some clothes; were they wet or dry?

A. They were dry.

MR GOLDEN: I offer in evidence the clinical reports.

THE COURT: Do they carry any significance to out minds?

MR GOLDEN: Mr Dominguez wanted them. We offer in evidence the clinical reports which have been reproduced by officer McIrath from the office of the property clerk of the city and county of San Francisco. I ask that they be marked the next exhibit.

THE COURT: Any objection?

MR GOLDEN: Being introduced at the request of Mr. Dominguez.

THE COURT: Is there any objection?

MR DOMINGUEZ: None whatever.

THE COURT: It will be received in evidence.

JOSEPHINE KEZA

Called as a witness in behalf of the people, sworn:

MR GOLDEN: Q. What is your name, please?

A. Josephine Keza.

Q. What is your business?

A. I am a maid in the St.Francis Hotel.

Q. And that hotel is in San Francisco? A. Yes, sir.

Q. And were you a maid in the St. Francis Hotel on last Labor Day,

September 5th,? A. Yes, sir.

Q. Do you remember that Mr. Arbuckle -- Fatty Arbuckle -- the gentleman sitting here and some other gentlemen occupied some rooms in the St. Francis Hotel on September 5th? A. Yes, sir.

Q. Do you remember the afternoon of September 5th?

A. Yes, sir.

Q. Were you near the rooms of Mr. Arbuckle and his friends on that afternoon? A. Yes, sir.

Q. During that afternoon did you hear any noise in the rooms?

A. The first noise I heard, it was by Arbuckle room 1219. The first noise I heard it was, "No, no. Oh, my God."

Q. Now where were you when you heard by Mr. Arbuckle's room 1219, "Oh my God, no, no, no?"

A. Well, I was in the hall and I heard the noise and I came in the door and I listened.

Q. You listened from the hallway? A. Yes, sir.

Q. At the door leading from the hallway into 1219?

A. Yes, sir.

Q. Was this a man's voice or a woman's voice, saying "Oh my God, no, no, no?" A. It was a woman's voice.

Q. Loud tone? A. Not very loud.

Q. You could hear it through the door?

A. Yes, I heard it through the door.

Q. About what time in the afternoon was this, as near as you can fix it?

A. It was between two and half past two.

Q. You are not sure of the time? A. Not sure of the time.

Q. And did you hear a man's voice in the room?

A. I heard a man's voice say "Shut up.

MR G[illegible]: That is all.

CROSS EXAMINATION

MR [illegible]: Q. Who was the first person you ever told this story to?

A. Mr. O'Ren.

Q. When? A. When they called for me -- I didn't remember when the day was.

Q. How long ago? A. I believe it was the week right after the trouble, or so.

Q. Hadn't you mentioned it before to anybody, before that time?

A. No, sir.

Q. Didn't tell anybody at the hotel?

A. Everybody in the hotel knew it.

Q. Wait a moment. I ask you what you heard. You say you head -- Did everybody in the hotel hear what you heard?

A. I told them first I heard all the noise.

Q. You heard noise. I am speaking about these alleged noises you claim you heard. Who was the first person you ever told that?

A. I didn't tell it to anybody, because the other maid heard it just the same -- the night maid.

Q. Was she standing there by at the time?

A. She wasn't standing always, but about one second, that is all.

Q. How many seconds did you stand there?

A. I was all afternoon.

Q. All afternoon listening at that door?

A. I was not just exactly behind the door, but I was coming and going.

Q. Who was standing by you at the door when you heard this?

A. There wasn't anybody.

Q. You were there alone?

A. I was alone -- but just a few seconds, the night maid was with me.

Q. You don't know who a voice that was?

A. Which voice?

Q. Either one of them -- you don't know who was calling out?

A. In the room?

Q. Yes. A. It was a girl's voice.

Q. But you don't know who the girl was? A. I can not say.

Q. You don't know who the man was? A. No, sir.

Q. You didn't go inside then? A. No, sir.

Q. Was anybody standing by you at that door -- I want to ask you that again? A. No, sir.

Q. You were there alone? A. I was there alone.

Q. To whom did you first tell this story now, that you have related here in court -- who was the first individual?

A. I don't know who it was first -- everybody -- I said to a lady in the hotel by the table I heard the girl scream.

Q. At this time you say you heard this voice in there, did you hear screaming? A. I heard all afternoon screaming.

Q. In 1220? A. 1220 and 1219; there was screaming in 1219.

Q. Screaming in 1219? A. Yes, sir.

Q. And in 1221? A. Not 1221. And 1220 was all music

and dancing and all kinds of noise -- and doors slamming and everything -- and by the time there was a girl across I saw one gentleman came out and after him one lady, but I shall never say which one it could be -- because I didn't see her very good, and she was undressed.

Q. What caused you to go to the door there to listen?

A. Well because I want to just hear the noise.

Q. You were passing by, were you?

A. Well, I was on the floor. It was on my section. I was passing going and coming.

Q. Were you passing by the door?

A. Yes, I had more rooms besides.

Q. And the door leading out to the hallway was closed, wasn't it?

A. Yes, sir.

Q. And you heard a voice, did you? A. Yes, sir.

Q. Then you stopped to listen? A. Yes, I listened.

Q. Did you listen through the keyhole?

A. No, I didn't listen, but I stand behind the door. I don't listen through the keyhole exactly-- but if I hear all kinds of noises I stop and listen.

Q. I am asking you now about what you heard in 311 -- never mind about the other noises -- just this noise. Where were you at 2 o'clock that day, do you know?

A. Well, I could never tell just exactly.

Q. Where were you at 2:30 that day?

A. Well I believe I was around the rooms.

Q. What is that? A. I believe I was at the time, around the rooms listening, I suppose.

Q. You say so. Are you sure you were there at 2:30 -- you would not swear to that would you?

A. I would not say, because I did not keep my watch with me to look at the time.

Q. You have the whole floor up there to look out for? A. Yes, sir.

Q. And you don't want us to believe you remained right there that afternoon in front of this particular suite, do you?

A. Certainly not.

Q. Do you know where you were at 3 o'clock?

A. I know at 3 o'clock I was right at my clothes closet.

Q. Where is that clothes closet of yours?

A. Near the room.

Q. The fact of the matter is, you never heard this language at all; isn't that true -- isn't that the fact -- you never heard this language at all, did you? A. What I don't hear?

Q. I mean these voices-- you didn't hear them at all, do you?

A. I didn't hear them say "Oh my God?"

Q. Yes. A. I did hear it, Klein, too -- and I heard a lot of slamming the doors just the same at that time.

Q. What is that? A. I heard the door slamming at that time.

Q. Did anybody tell you to tell this story here in court?

A. When?

Q. That you heard these voices in that room--did anybody tell you to tell it here? A. Well, I had nobody to tell me.

Q. Did you listen at any other door that day to see what was being said by anybody up on that floor?

A. I wasn't where I could get in.

Q. Did you listen at any other door, on that afternoon there -- mind you -- on that floor -- anybody else talking?

A. No, sir, I wasn't listening behind another door.

Q. Did you ever listen at any time while you were employed at that place, by a door and hear anybody talking?

A. I was listening from room 22, and listened from room 18.

Q. I thought you said you were listening from the corridor.

A. I was coming all guide, and I go in the hall and I was all over.

Q. I am talking now about what you listened on that day -- that is what I am asking you -- where were you then?

A. Then I was in the hall.

Q. Had you listened to any other conversation - mind you - while in your own hall if any other person spoke at this time?

A. No, sir.

Q. This is the first time that you have been working there, or listening to anybody talking there in that room; is that true?

A. This is the first time.

Q. You never make a business of listening, do you?

A. Well, usually when we see a party like this drinking and dancing -- well, once in a while we might listen.

Q. You don't go to a door and listen to any particular conversation do you? A. No, sir.

Q. And you never had done that before, had you? A. No, sir.

Q. This is the first time in your life you had ever listened at a door to anybody else's conversation; is that true?

A. Yes, sir.

Q. And had never done that before while working at the hotel; is

that true?

A. No, sir -- I wasn't listening as avidly to know anything -- but just as I happened to come around the room, and it happened that I listened.

Q. But you stopped there? A. I did stop.

Q. And you went to the door and you listened with your ear; didn't you do that? A. There was singing and dancing.

Q. I am talking now about the time when you went to that door, Miss. That is what I am talking about.

A. Didn't I say -- first when I heard the noise and laughing I ran and I listened.

Q. Did you report that conversation to anybody connected with the hotel? A. No, sir.

Q. Never did? A. Never did.

Q. You are sure it ever occurred?

MR [illegible]: I am going to object if the Court please. That question has been asked and answered several times.

THE [illegible]: I don't see where the defendant is gaining any advantage or the prosecution losing any, because of defendant's counsel indulging in repetition of everything over and over again.

MR [illegible]: I object to the Court stating I have asked this question repeatedly. I don't think that I have, and the record won't show it.

MR [illegible]: Three times.

MR [illegible]: I beg your pardon; but in this form. It is a peculiar witness, Mr. Solicitor.

MR [illegible]: There is nothing peculiar about the witness; she is

a very hard-working woman.

MR DOMINGUEZ: That is all.

MR G[illegible]: If the court please, in view of the fact this is a preliminary, in which the object to be ascertained is not the guilt or innocence of the defendant, but simply as to whether or no there should be a holding upon probable cause, we are satisfied that more than ample evidence has been introduced on that point. We now submit the matter to your Honor.

THE COURT: (After discussion.) I presume the case of the People is in the hands of the district attorney. I will state that the action of the district attorney has taken the court as much by surprise as it has the counsel for defendant. I really expected we would have the advantage of hearing the testimony of the prosecuting witness in this case, whose name has been mentioned so frequently in the testimony of the other witnesses, and who apparently could tell us more about the transactions involved here than any other witness who has thus far appeared. However, the presentation of the state's testimony -- the evidence on behalf of the People rests entirely with the district attorney, if he desires to rest at this time. I see no method except the persuasion that has been indulged in by counsel for the defendant that can make him recede from his attitude -- if persuasion won't do it, I don't know what else will.

MR G[illegible]: Now if the court please, your Honor must remember that as the representative of the law, temporarily at least, we perform our duty as we see it. You we have reasons, and they are

ample, and counsel must be content with that.

MR. [illegible]: As long as the State has rested, and content to [illegible] upon the record here, we, for the defense, desire a short continuance pending the filing of a motion to dismiss. We feel there is no case, under the law, and under the facts, to warrant a holding for murder or any other crime; and we will be prepared after a short continuance to present to your Honor voluminous authorities. The State has rested their case, and we will join into it.

MR. O'[illegible]: We have not any objection to a short continuance.

THE COURT: I will state this: That I regret that the District Attorney hasn't seen fit to present more proof than he has. It is quite evident that this particular witness, the prosecuting witness, the woman who has signed the complaint here, is naturally a very important witness -- important to the extent that she was interested in filing the complaint in this court, and I don't, naturally, sitting here as a judge, disagree with the attitude of the office concerned with the prosecution of crimes and criminals, but still I feel that in all fairness to the court that before being called to make a ruling in this matter, that I should be given rather more facts upon which to base my decision, because I feel that there is a good deal of reserve testimony here -- I think that in order to more fully enlighten the mind of the court -- I have been very patient here; I have taken voluminous notes and carefully considered the testimony so far, and I think in fairness to the court that any further enlightenment that you may have to offer, or might offer, should be presented.

MR. [illegible]: This case is no different, if the Court please, from

any other case. We are trying this case the same as we are any other case.

THE COURT: This is the first case that has ever come within my experience that the prosecuting witness has never been placed upon the stand. Usually in felony cases that come before me, the prosecuting witness is the only witness presented.

MR. [illegible]: Frequently the prosecuting witness never makes his appearance after he is brought -- frequently he is a police officer who knows very little, if anything at all, about the facts of the case.

THE COURT: Well, I will tell you one thing, Mr. District Attorney, you are taking a chance on a motion to dismiss when you regulate your testimony so strictly that you are only putting in just what you consider sufficient to warrant a holding. You are traveling very close to the line which might necessitate me dismissing these proceedings.

MR. [illegible]: Every man is guided by his own conscience. That we have done our full duty, we are content.

(Discussion.)

THE COURT: The record will show that you have made a motion to dismiss, which the Court denies, and we will adjourn until tomorrow at 2 o'clock.

(Further proceedings continued until tomorrow, Friday, September 26th, 1941, at 2 o'clock P.M.)

WEDNESDAY, SEPTEMBER 28, 1921.

2 o'clock P.M.

THE COURT: (After discussion) It appearing to the satisfaction of the Court that a felony, to-wit: Manslaughter, has been committed and that there is reasonable and probable cause for believing the defendant, Roscoe Arbuckle, guilty thereof,

IT IS ORDERED, that said defendant be held to answer before the Honorable Superior Court of the City and County of San Francisco upon the said charge above-mentioned, and in the meantime that he be committed to the custody of the Sheriff of the City and County of San Francisco to await trial upon said charge, or until he give bail or is otherwise legally discharged, which bail is hereby fixed in the sum of $10,000 bonds or $5,000 cash.

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STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO ss.

I hereby certify that the foregoing is a full, true and correct transcript of the shorthand notes taken by me in the above-entitled case, and that the same is a full, true and correct statement of the testimony and proceedings in said case.

John F. Gallagher

Official Stenographer Police Court
Department No. 2.

WEDNESDAY, SEPTEMBER 28, 1921.

2 o'clock P.M.

THE COURT: (After discussion) It appearing to the satisfaction of the Court that a felony, to-wit: Manslaughter, has been committed and that there is reasonable and probable cause for believing the defendant, Rosario Arboleda, guilty thereof,

IT IS ORDERED, that said defendant be held to answer before the Honorable Superior Court of the City and County of San Francisco upon the said charge above-mentioned, and in the meantime that he be committed to the custody of the Sheriff of the City and County of San Francisco to await trial upon said charge, or until he give bail or is otherwise legally discharged, which bail is hereby fixed in the sum of $10,000 bonds or $5,000 cash.

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STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO ss.

I hereby certify that the foregoing is a full, true and correct transcript of the shorthand notes taken by me in the above-entitled cause, and that the same is a full, true and correct statement of the testimony and proceedings in said cause.

Official Stenographer Police Court
Department No. 8.